

**ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT FOR DE MINIMIS DISCHARGES TO WATERS OF THE U.S.
AZG2010-001**

RESPONSE TO COMMENTS

(A.A.C. R18-9-A908(E)(2))

Administrative Record

The accompanying Fact Sheet dated February 2010 sets forth the basis for issuance of the 2010 Arizona National Pollutant Discharge Elimination System (AZPDES) De Minimis General Permit (DMGP), No. AZG2010-001. The DMGP is intended to provide permit coverage for point source discharges to Waters of the United States that meet the applicable surface water quality standards; that are low-flow and/or low-frequency, or otherwise determined by ADEQ to be appropriate for DMGP coverage; that are conducted with appropriate best management practices; and that do not last continuously for longer than 30 days unless otherwise approved in advance by ADEQ. The DMGP is applicable within the State of Arizona, except for Indian Country.

The previous DMGP, AZG2004-001, expired on March 17, 2009.

Prior to the Department preparing the draft permit and providing public notice, stakeholders were invited to submit input during an informal comment period, April 13 through April 27, 2009. Twelve stakeholders submitted comments during this period.

On August 28, 2009, the public notice (PN) for the new DMGP was published in the Arizona Administrative Register (M09-301). Public comments were accepted by the Department through September 28, 2009. Eleven stakeholders submitted comments during the PN period.

Subsequent to publication of notice of the draft permit, the Department conducted public meetings on the following dates at the locations indicated:

- Tuesday, September 15, 2009, 10 AM to 12 Noon in Conference Room 3175 at Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona; and
- Thursday, September 17, 2009, 10 AM to 12 Noon, ADEQ Southern Regional Office, Conference Room 444, State of Arizona Regional Complex, 400 West Congress, Tucson, Arizona.

SUMMARY OF CHANGES FROM DRAFT PERMIT TO FINAL PERMIT

The following is a summary of significant changes between the public notice (PN) draft and final permit made in consideration of comments received. Additional information and minor changes are addressed in the comments and responses which follow this summary.

1. **Title page and Part I.A.:** the term "surface waters" has been changed to "Waters of the U.S." This change has also been made in other key references to regulated waters, such as in Part II.B.11. See discussion under Comment 2, below.
2. **Part I.A.:** The paragraph addressing situations that require permit coverage has been moved to the corresponding section of the Fact Sheet. It has been revised to reflect the statutory requirement for AZPDES permit coverage (A.R.S. § 49-255.01), and the option of obtaining such coverage under the DMGP. The language regarding the exemption of CERCLA activities from AZPDES permit requirements has been corrected. It now refers to activities that are part of a remedial action under

the Federal CERCLA statute, not just those conducted pursuant to a CERCLA consent decree as stated in the PN draft.

3. **Part I.B.4.e., I.B.5., and I.C.5., regarding reclaimed water discharges:** Revisions allow occasional short-term discharges of Class A+ or B+ reclaimed water to perennial, intermittent, or impaired waters, subject to Specific Approval (Part I.B.7.). Discharges of reclaimed water to these water types were excluded under Part I.C.5. in the draft permit. Part I.C.5. still excludes reclaimed water discharges to Outstanding Arizona Waters and waters with the Domestic Water Source (DWS) designated use.
4. **Part I.B.6.c., Building and/or street wash water:** Language has been added specifying that accumulations of pollutants, if present, must be physically removed prior to conducting washing activities that will result in a discharge. This is to help ensure that these discharges are consistent with Parts IV.A.1. and certain discharge prohibitions in Parts IV.B.4.a., IV.B.5., IV.B.6., and IV.B.8. of the permit
5. **Part I.B.6., Other:** the discharges that do not require NOIs (charitable car washes, swimming pools, etc., Part I.B.6.) are now authorized for discharge to *effluent-dependent waters*, in addition to ephemeral waters and non-DWS use canals as in the PN draft.
6. **Part I.B.6.d., Discharges of dechlorinated/debrominated swimming pool drainage:**
 - This section now specifies discharges from *freshwater* pools to distinguish them from saltwater pools.
 - This section now specifies that discharges must be dechlorinated or debrominated *prior to release* from the premises. This was done because dechlorination/debromination via flowing through an MS4 or other conveyance may not be adequate to meet the chlorine standard for the affected surface water.
 - This section now specifies that pool drainage must be visually clear, colorless, free of suspended solids, floating material, and debris. Discharges from draining of neglected pools could otherwise violate the “Discharge Prohibitions” of the DMGP (Parts IV.B.4. – IV.B.8.).
7. **Part I.B., “NOTE”; Part II.B.7.; and Part VII.B.:** This “NOTE” (formerly Part I.B.8. in the draft permit) and the definition of “De Minimis discharge” (Part VII.B.) originally called for advance ADEQ approval for discharges lasting longer than 30 consecutive days. Revisions have been made to clarify that the threshold for this requirement is a discharge that will occur continuously for longer than 30 days. This clarification reflects ADEQ’s implementation of the corresponding provision in the 2004 DMGP.
8. **Part I.C.3., under Limitations on Coverage:** This item no longer categorically excludes discharges containing “strong acids” or “caustic agents” (strong bases) from DMGP coverage. The permit already contains adequate controls on these potential pollutants in the discharge limitations for pH in Appendix A, Tables A – D.
9. **Part II.A.6., Facility-wide coverage:**
 - A modification has been made to clarify that discharges may be covered from maintenance and testing of a multiple-purpose water system *that supplies industrial use* along with a potable, irrigation, or fire suppression system.

- Language has been added to clarify that DMGP coverage may be provided for discharges from *maintenance and testing* of the subject water systems, including those intended for fire suppression. This clarification was needed because discharges from emergency firefighting activities are generally not covered under AZPDES permits.
 - In accordance with existing Parts I.B.4., I.B.5., and I.C.5. of the permit, language has been added to clarify that for reclaimed water systems, DMGP coverage is limited to Class A+ or B+ reclaimed water.
10. **Part III.A.1., Discharges authorized under the 2004 DMGP:** This section has been revised to clarify that discharges that were authorized and not terminated under the 2004 DMGP remain authorized, subject to the conditions in DMGP Part III.A.1.a. – d. As in the draft permit, those conditions include updating the Best Management Practices Plan (BMPP) and submitting a new NOI or a NOT within certain time frames.
 11. **Part III.B.1. through 3., under Contents of NOI:** The requirements for listing the parties pertinent to the discharge have been revised to be consistent with R18-9-C902(D)(2), which calls for the facility owner's and the facility operator's information (if different from the owner).
 12. **Part III. B.10, "NOTE" at end:** In the draft DMGP, the use of "Table 2" (unspecified discharge locations) in the Areawide or Facility-wide NOI was not allowed for discharges to perennial, intermittent, impaired, or Outstanding Arizona Waters. The use of Table 2 is now allowed for discharges to any type of surface water, with certain conditions and limitations.
 13. **Part III. B.10, "NOTE" at end:** The draft permit did not specifically allow the use of Table 2 (unspecified discharge locations) for Project-wide applicants; this section mentioned only Areawide and Facility-wide applicants. It has been changed to include Project-wide applicants.
 14. **Part IV.D.II.c.ii.:** The "NOTE" that contained ADEQ's recommendation for reducing chlorine below the formal permit limit of 4,000 µg/L in discharges to ephemeral waters has been removed from the permit. A similar item has been added to the corresponding section in the Fact Sheet.
 15. **Part IV.D.3. (revisions & resubmittal of BMPP):** The Public Notice draft contained a new requirement for resubmittal of the revised BMPP or revised sections thereof, if submittal was required for the previous version. This section has been revised to provide that the BMPP may be modified only if the changes will result in equivalent or greater effectiveness in minimizing pollutants in the discharge; and that resubmittal of the revised/updated BMPP to ADEQ is not required unless specifically requested.
 16. **Part VII.B.:** The definition of "best management practices" has been modified to match the statutory definition at A.R.S. §49-201.3.
 17. **Part VII.B.:** A definition of "Person" has been added reflecting the definition at A.R.S. §49-201(27). This clarifies that the "person" submitting a NOI or seeking authorization to discharge (under DMGP Part II) may be an individual or any type of organization listed in the A.R.S. definition. NOTE: Part V.K. of the permit still specifies individual signatory requirements for various types of organizations including sole proprietorships, and has not been changed.
 18. **Part VII.B.:** A definition of "Vault" has been added, to clarify the exception from routine coverage in Part I.B.2. (vault discharges are subject to Specific Approval).
 19. **Part VII.B.:** Corresponding with Change #1 above, a definition of "Waters of the U.S." has been added to the permit, consisting of a reference to the definition in 40 CFR 122.2. The definition of

“surface water” now simply refers to the definition in AAC R18-11-101(41). See discussion under Comment 2, below.

20. **Appendix A, Part A.1.:** Language has been added providing that ADEQ may modify monitoring requirements prescribed in Appendix A., Tables A – D, based on water quality data submitted by the applicant/permittee.
21. **Appendix A, Parts A.5. and B.1.:** The discharge threshold for required photographic documentation and reporting of monitoring results has been raised from 0.25 to 0.50 million gallons in any one day.
22. **Appendix A, Tables A- C:** The format of the first section of each table has been modified to separate Discharge Limitations from Action Levels.
23. **Appendix A, Table C:** The discharge limitation for Boron for surface waters with the Domestic Water Source designated use has been changed to 1,400 µg/L, in accordance with the 2009 SWQS. NOTE: the limitation for the Agricultural Irrigation designated use remains at 1,000 µg/L.
24. **Fact Sheet, regarding Part V., Standard Permit Conditions:** An item has been added in the description of DMGP Part V.M., “Other Environmental Laws,” to highlight the statutory requirement for any AZPDES discharge to have an individual or general Aquifer Protection Permit (APP), unless exempt under A.R.S. §49-250.

GENERAL COMMENTS

1. COMMENT

“...On January 22, 2009, Governor Brewer issued a moratorium on rulemaking that is still in effect... Pursuant to the moratorium, agencies cannot make rules unless the Governor has determined that an exception is necessary... The Arizona Administrative Procedure Act, A.R.S. §§ 41-1001 *et seq.*, (“APA”) defines a rule as “an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency.” A.R.S. § 41-1001(17).”

“The Arizona Department of Environmental Quality uses the Permit to implement new law and prescribe policy. Therefore, the Permit is a rule under the APA. As such, the moratorium prohibits promulgation of the Permit unless the Governor provides an exception or the moratorium is removed and the Permit then undergoes the formal rulemaking process prescribed in the APA.”

Irrigation & Electrical Districts Association of Arizona

RESPONSE

ADEQ disagrees with the conclusion that the DMGP is a rule. Permits are not rules, but rather are issued pursuant to existing rules governing discharges to waters of the U.S. Discharges are required by law to have AZPDES permit coverage, either under an individual permit or a general permit. In issuing the DMGP, ADEQ is following existing AZPDES rules (A.A.C. Title 18, Chapter 9, Article 9) by offering this general permit option for qualifying discharges. The DMGP offers potential permittees alternatives to individual AZPDES permits that would be required otherwise. As a permit, it is not a rule and thus is not subject to Governor Brewer’s moratorium.

No change was made to the permit issuance process in response to this comment.

2. COMMENT

The commenter noted that the title of the draft DMGP specified coverage for discharges to “surface waters”, with a corresponding definition in Part VII.B. which referenced the definition in A.A.C. R18-11-101(41). He noted that this was unlike several AZPDES stormwater permits which cover discharges to “waters of the United States (U.S.)” as defined in 40 CFR 122.2. The commenter requested that the title be changed so that the DMGP addresses discharges to “waters of the U.S.” for consistency with the cited stormwater permits; that the definition of “surface water” be deleted from the DMGP; and that a definition of “waters of the U.S.” be added consistent with that in the other cited permits.

City of Mesa

RESPONSE

The term “surface waters” has been changed to “Waters of the U.S.” on the title/signature page and in Part I.A. of the permit, for consistency with the stormwater permits cited by the commenter. Accordingly, a definition of “Waters of the U.S.” has been added to Part VII.B. of the permit, referencing the definition at 40 CFR 122.2. A definition of “surface water” has been retained because the term is used frequently throughout the permit, as it is in the Arizona Surface Water Quality Standards (SWQS, A.A.C. R18-11, Article 1) and other AZPDES documents. This definition now consists of a citation of the definition in the SWQS at A.A.C. R18-11-101(41).

3. COMMENT

The commenter cited a guidance memorandum issued on December 2, 2008, by the U.S. E.P.A. (USEPA) and the U.S. Army Corps of Engineers (USACE) regarding Clean Water Act (CWA) jurisdiction in light of the U.S. Supreme Court’s decision in *Rapanos v. United States*. The commenter acknowledged that the cited guidance addresses §404 of the CWA, but asserted that “the spirit and the technical merit” of the guidance should influence the DMGP. The commenter recommended that ADEQ include an applicability determination as part of the NOI process for ephemeral waters, according to the criteria set forth in the guidance for determining whether the subject waters fall inside or outside of regulatory jurisdiction.

Metropolitan Domestic Water Improvement District

RESPONSE

The commenter is correct in noting that the U.S. Supreme Court’s “Rapanos” decision was related to the provisions of Section 404 of the CWA (Permits for Dredged or Fill Material, administered by USACE). It does not address the NPDES program, which is under §402 of the CWA. The above-referenced guidance memorandum specifically states in footnote #18 that it “focuses only on those provisions of the agencies’ regulations at issue in *Rapanos*”, citing several federal regulations that are for the 404 permitting program. Footnote 18 also states that the guidance “does not address or affect other subparts of the agencies’ regulations, or response authorities, relevant to the scope of jurisdiction under the CWA.” Because AZPDES permits (including the DMGP) are issued pursuant to §402 of the CWA, the EPA/USACE guidance does not affect them.

No change was made to the permit in response to this comment.

4. COMMENT

The commenter stated that “the Department should address the Permit’s attempt to expand ADEQ’s jurisdiction over canals that do not qualify as “surface waters.” Although the Permit defines “DWS use canal” and “non-DWS use canals,” which both pertain to the canals listed in 18 A.A.C. 11, Appendix B, these canals, as long as they otherwise meet the definition of “surface water,” are the only canals over

which the Department has jurisdiction.”.... “However, in multiple places the Permit appears to regulate discharges into non-jurisdictional canals. See Part II.A.2(b), 3, 4, 5, 6, C.1, Part III.B.7, D and Part IV.D.2.c.vi. The general references to “canals” should be changed to canals over which the Department has jurisdiction: non-DWS use canals and DWS use canals.

Irrigation & Electrical Districts Association of Arizona

RESPONSE

The reference to “canals” in the sections cited by the commenter do not pertain to regulation of discharges thereto. Rather, the cited sections each contain the following proviso:

“If a discharge is to or has the potential to reach a public or privately owned storm sewer, drainage system, **canal**, or other conveyance, the applicant must also forward a copy of the completed NOI to the owner/operator of the conveyance at the time it is submitted to the Department.”

This requirement is intended to recognize and protect the prerogative of the owner or operator of any such conveyance to allow or disallow the proposed discharge. This is consistent with DMGP Part V.G. (Property Rights) which is based on A.A.C. R18-9-A905(A)(3)(a) and 40 CFR 122.41(g).

No change was made in response to this comment.

PERMIT PART I – COVERAGE UNDER THIS GENERAL PERMIT

5. COMMENT (Coverage – general)

Two commenters who represent cities operating Municipal Separate Storm Sewer Systems (MS4s) expressed the concern that certain common types of non-stormwater discharges to MS4s are not included in the DMGP, and thus do not have AZPDES permit coverage (e.g., residential car washing; landscape irrigation; AC condensate other than residential; lawn watering; etc.) Under Federal rules [40 CFR 122.26(d)(2)(iv)(B)(1)], these are among the types of discharges that an MS4 is not required to prohibit unless the MS4 identifies them as sources of pollutants to waters of the U.S. But since these types of non-stormwater discharges do not have AZPDES permit coverage they are considered “illicit discharges” under existing and proposed AZPDES MS4 permits.

The commenters were concerned that without DMGP coverage there would be no legal mechanism under which the MS4s could allow the cited discharges, despite the flexibility provided in 40 CFR 122.26. The question was asked whether MS4s would be required to “effectively prohibit” such discharges, and if so, whether ADEQ would be prepared to address concerns from the general public and MS4 operators in relation to the legal actions that would be necessary to accomplish such prohibitions. It was requested that ADEQ either include these types of discharges for coverage in the DMGP, or provide an explanation demonstrating how they may legally occur in an MS4.

City of Mesa
City of Glendale

RESPONSE

In the context of the Phase I stormwater program and associated requirements, the Phase I MS4 permittee is to effectively prohibit illicit discharges into the storm sewer system (see Section 402(p)(3)(B)(ii) of the Clean Water Act, and 40 CFR 122.26(d)(2)(i)). An illicit discharge is any non-stormwater discharge to an MS4, with the following exceptions: 1) discharges that are covered by

another AZPDES permit for discharge to waters of the U.S., and 2) discharges resulting from firefighting activities (40 CFR 122.26(b)(2)).

However, it was recognized early in the Phase I process by EPA and stakeholders that certain non-stormwater discharges to the storm sewer system are common and typically contain minimal amounts of pollutants. As such, in the implementing regulations, regulated MS4s are not held responsible for prohibiting some specific types of discharges or flows through their system, unless such discharges are specifically identified on a case-by-case basis as needing to be addressed (40 CFR 122.26(d)(2)(iv)(B)(1) and 55 Federal Register 47995 and 48037). Those discharges include the types listed in both of the above-referenced comments.

Although recently-issued and anticipated Phase I MS4 permits do not cover non-stormwater discharges to waters of the U.S., they do not, in themselves, prohibit all such discharges to the MS4. The prohibition would be accomplished by the MS4 via ordinance or other means, as part of its Illicit Discharge Detection and Elimination (IDDE) program.

Notwithstanding the above, the permitted MS4 is required to maintain adequate legal authority (e.g., city code, ordinance, or similar) to address all discharges into their system. The MS4 must also work to reduce the discharge of pollutants to its system by means of public involvement/education/and participation. Therefore, the department believes the referenced discharges are, in general, adequately addressed by the MS4 program, rather than needing an expansion of eligible discharges under the DMGP.

Moreover, if DMGP coverage were extended to the referenced list of discharges, permittees would potentially be subject to violations if the conditions of such a permit were not met. ADEQ believes the potential for concerns from the general public would be far greater under such a scenario than under the MS4's required program as described above.

The department believes it is best to continue to work within the existing framework described in 40 CFR 122.26 and Federal Register, which does not require MS4 action in regard to such discharges unless the discharges are identified as sources of pollutants to waters of the U.S.

No changes were made to the permit in response to this comment.

6. COMMENT (Coverage – general):

The commenter stated that “this permit effectively takes away discretion granted to municipalities in 40 CFR Part 122, Section 26, Paragraph (d)(2)(iv)(B)(1)”, which requires municipalities to address certain categories of non-stormwater flows into their MS4s only if they are identified as sources of pollutants to waters of the U.S. The commenter wrote that “Tempe would like to understand ADEQ’s rationale for this departure from the federal regulations.”

City of Tempe

RESPONSE

(For background on 40 CFR 122.26(d)(2)(iv)(B)(1), see Comment/Response #5, above.) ADEQ disagrees that the DMGP takes away the discretion provided to municipalities under 40 CFR 122.26. The municipality always has the prerogative and the responsibility of allowing or prohibiting any types of discharge into its MS4. The DMGP authorizes some of these types of discharges to *waters of the U.S.*, subject to conditions that are intended to prevent pollution. However, it (like all AZPDES permits) contains a proviso stating that it does not convey any property rights or exclusive privileges, and does not authorize any infringement of federal, state, tribal, or local laws or regulations (Part V.G.). Accordingly, the DMGP does not convey any right or permission to utilize the MS4 for discharges. On

the other hand, for the types of discharges that are listed in 40 CFR 122.26(d)(2)(iv)(B)(1) but are NOT covered by the DMGP, the municipality still has the discretion to address them in its MS4 program description or to prohibit them. Thus ADEQ does not believe that the DMGP constitutes a departure from the federal regulations.

No change was made to the permit in response to this comment.

7. COMMENT (Coverage – general):

The commenter expressed concern about the requirement in MS4 permits for tracking and recording non-stormwater discharges. It was requested that DMGP coverage be provided for various non-stormwater discharges that are not included now, and to allow tracking and recording requirements under MS4 permits to be satisfied by submitting copies of the corresponding DMGP Notices of Intent (NOIs) or authorization letters.

City of Mesa

RESPONSE

ADEQ believes that the concern about tracking and reporting requirements for non-stormwater discharges is an MS4 permit issue which is better addressed within the AZPDES MS4 program than via the DMGP. MS4 operators who are unsure of how to fulfill tracking and reporting responsibilities may seek clarification from the ADEQ Stormwater Program. Moreover, even if the cited types of discharges were covered under the DMGP, they would likely be grouped with other discharges that do not require submittal of NOIs (DMGP Part I.B.6), so there would be no NOIs to use for tracking and recording requirements as suggested above. Requiring an individual NOI to be submitted for each of these discharges would be onerous not only to the permitting authority, but to the dischargers as well (e.g., individual residential car washers).

No change was made to the permit in response to this comment.

Part I.A., BACKGROUND: Language was included in the PN draft of the permit to specify the conditions under which DMGP coverage is required.

8. COMMENT on Part I.A.

“ADEQ should retain this section unchanged from the previous general permit. ADEQ should refrain from the phrase ‘coverage under this permit is required’ (emphasis added) because it suggests that general permit coverage is not optional and used only at the discretion of the permittee in lieu of seeking an individual permit for the activity.”

Pima County Regional Wastewater Reclamation Department

RESPONSE:

The paragraph in question was drafted in response to stakeholder input during the informal review period, to clarify the situations in which DMGP coverage would be required. Since it is intended to be explanatory, it has been moved to the corresponding section of the Fact Sheet and revised to reflect the following: under A.R.S. § 49-255.01, any discharge to waters of the U.S. requires coverage under an AZPDES permit, unless excluded from permit requirements under statute or rule. For eligible discharges, one of the options for obtaining coverage is via the DMGP. Certain non-stormwater discharges may be allowable under the general permits for construction or industrial stormwater. A

person planning to conduct such a discharge may apply for an individual AZPDES permit, but the process of obtaining DMGP coverage is generally much simpler and quicker. Regardless of which permit option the person chooses, permit coverage must be in place at the time of discharge.

9. COMMENT on Parts I.B.1.; I.B.4.a. - b.; and I.B.2.a.

The commenter requested clarification on whether discharges associated with waterline construction and subterranean dewatering require separate DMGP coverage if the discharger has coverage under the AZPDES Construction General Permit (CGP). He pointed out that these types of activities are allowable under the CGP and have not required separate DMGP coverage in the past. He suggested a coordinated authorization process that could be instituted if coverage were required under both the CGP and the DMGP.

The commenter also expressed his concerns that the NOI and BMPP requirements of the DMGP are too complex; that few construction operators will comply where coverage is required; and that this will create a competitive disadvantage for operators who do comply.

Fann Contracting, Inc.

RESPONSE

If the discharger has CGP coverage and meets all of the applicable CGP requirements, separate coverage is not required for the "Allowable Non-stormwater Discharges" listed in CGP Part I.C.2.a., except where the receiving waters are impaired waters or Outstanding Arizona Waters (OAW, formerly "unique waters"). These allowable non-stormwater discharges include potable water line flushing (if the receiving waters are ephemeral) and uncontaminated waters obtained from dewatering operations; therefore no separate AZPDES permit coverage is required for these activities if all the pertinent CGP conditions are met.

However, discharges to waters of the U.S. from potable waterline flushing (as well as hydrant and well flushing) do require separate AZPDES permit coverage if the receiving waters are perennial, intermittent, or effluent-dependent. The same is true for non-stormwater discharges of any kind if the receiving waters are impaired or OAW.

With regard to the suggestion to coordinate the CGP and DMGP authorization processes, it appears that the number of construction-related non-stormwater discharges actually requiring separate AZPDES permit coverage would be much smaller than envisioned by the commenter (since many are allowable under the CGP). Therefore ADEQ does not believe that the benefit from such a process would warrant the time and resources that would be required to put it in place. In addition, since the discharges that do require separate coverage involve the more sensitive receiving waters, a request for DMGP authorization would still require a detailed review even if coordinated with the CGP process.

No change was made to the permit as a result of these comments.

10. COMMENT on Part I.B.2. and other sections

The commenter requested that the permit be revised to differentiate between telecommunications vaults and other kinds of utility vaults, streamlining eligibility for dewatering discharges from telecommunications vaults. (Parts I.B.2.b. and II.A.5. allow coverage for vault discharges only if approved under Part I.B.7., Specific Approvals). The commenter proposed that short-duration, infrequent telecommunications vault discharges should not be subject to Specific Approval; should be allowed coverage without submittal of a Notice of Intent under Part II.A.; and should be exempted from discharge monitoring under Part IV.E.1. a. and b.

In support of the above, the commenter cited the following: **1)** telecommunications vaults (under a specific definition proposed for the permit) are not designed to house equipment with the potential to release contaminants, so dewatering discharges usually approximate the character of the stormwater or groundwater that seeped into the structure; **2)** AT&T uses documented Best Management Practices (BMPs) to prevent the improper discharge of pollutants when vaults are dewatered; **3)** vault dewatering is infrequent, but often needs to be done quickly when telecommunication system repairs are needed, in any of the approximately one thousand AT&T vaults in Arizona; and **4)** ADEQ would retain the authority to review the BMPP and to take appropriate action if the BMPs were deemed unsatisfactory.

AT&T

RESPONSE

ADEQ appreciates the fact that AT&T has BMPs designed to prevent the discharge of contaminants from telecommunications vault dewatering activities. However, ADEQ believes that sufficient flexibility is provided in the final permit to address the commenter's concerns about the NOI process and the extent of discharge monitoring required. (See Comments/Responses #21 and #40, below.)

Although telecommunications vault discharges may approximate the character of the stormwater or groundwater that seeped into the structure, there is always a potential for that seepage to contain contaminants. The DMGP must provide for adequate control of water quality in vault discharges to waters of the U.S., regardless of the origin of potential pollutants.

Entities operating systems of vaults are eligible to apply for Project-wide DMGP coverage, which (upon approval) should allay concerns about the number of discharge locations and the need to discharge quickly for repairs.

No changes have been made in response to this comment.

Part I.B.6., BACKGROUND: The discharges activities included in Part I.B.6 (charitable car washes, dechlorinated swimming pool drainage, etc.) are common within MS4 service areas and are often made directly to the MS4 before potentially reaching a water of the U.S. They do not require submittal of a Notice of Intent to be covered under the DMGP. In the 2004 DMGP and the 2009 draft permit these activities were covered only for discharge to ephemeral and non-DWS use canals.

11. COMMENT on Part I.B.6.

The commenter suggested that this section should allow discharges to effluent-dependent waters (EDWs), like Parts I.B.4.e. and I.B.5 which allow discharges of reclaimed water to EDWs (as well as to ephemeral waters and non-DWS use canals). The commenter noted that "This change should also be made to limit notification and compliance issues that may arise for discharges to MS4 systems that are tributary to effluent-dependent waters."

Pima County Regional Wastewater Reclamation Department

RESPONSE

Part I.B.6. has been revised to include coverage for the listed discharges to EDWs. Discharges of residential non-contact cooling water and from charitable noncommercial car washes (as specified in the permit) are not anticipated to be detrimental to water quality in EDWs. Additionally, ADEQ expects the permit conditions for discharges resulting from building and/or street wash water and from swimming pool draining will be protective of water quality in all the allowed surface waters, including EDWs.

12. COMMENT on Part I.B.6.

The commenter asked how permitting would take place for the discharge activities included in Part I.B.6. if the discharge is to an EDW or other non-impaired water body; and whether these would be available for individual permitting.

City of Mesa

RESPONSE

As indicated in the response to Comment 12., above, Part I.B.6. has been revised to include coverage for the listed discharges to EDWs. However, the DMGP does not provide routine coverage for these types of discharges to perennial, intermittent, impaired, or Outstanding Arizona Waters, due to the sensitivity of the affected surface waters and the many variables involved in the water quality of the subject discharges. Permitting them via single-source De Minimis NOIs or individual AZPDES discharge permits would not be practical or feasible. These types of discharges should not be made in areas where they will reach water types other than those specified in Part I.B.6.

13. COMMENT on Part I.B.6.b.

The commenter expressed the opinion that few people operating charitable car washes would be aware of the DMGP or its requirements. He also stated that such car wash events generally do not release enough water to reach a waterway, although they may enter municipal storm drains. He suggested that for these reasons ADEQ should consider excluding charitable car washes from the permit.

Fann Contracting, Inc.

RESPONSE

Although some releases of water from charitable car washes may not reach surface waterways, they often flow into municipal separate storm sewer systems (MS4s) which include city streets. Since most MS4s ultimately discharge to waters of the U.S., AZPDES permit coverage is appropriate for qualifying activities that generate flows of non-stormwater into MS4s, in case those flows do enter waters of the U.S.

ADEQ acknowledges that a significant amount of public education and outreach is needed with regard to charitable car washes and the other the types of discharges covered under DMGP Part I.B.6. However, since NOI submittal is not required for these discharges, DMGP coverage is automatic for those who qualify. ADEQ believes that their coverage (which originated with the 2004 DMGP) makes sense because without it these activities could be in violation of the AZPDES statute (A.R.S. Title 49, Chapter 2, Article 3.1). DMGP coverage is also intended to reduce pollution sources by providing a means to reduce/eliminate non-qualifying discharges.

No change was made to the permit in response to this comment.

14. COMMENT on Part I.B.6.d.

The commenter expressed concern about potential impacts to surface waters and groundwater from saltwater swimming pool discharges, given the increasing trend toward a greater proportion of saltwater pools. Such pools are reported to have salinities of up to 6,000 part per million. The commenter cited potential impacts not only to surface waters but also to aquifers which are sources of drinking water.

The commenter recommended that ADEQ differentiate between saltwater and freshwater swimming pools in Part I.B.6.; modify Part II.A.2.a. so that an NOI would be required for discharge of saltwater pool drainage; and restrict these discharges to surface waters that have salinities at least as great as the pool water being discharged.

Metropolitan Domestic Water Improvement District

RESPONSE

ADEQ agrees that saltwater pool discharges pose potential risks to surface water and groundwater quality. In providing routine coverage for dechlorinated swimming pool drainage in the 2004 DMGP (with no NOI required), ADEQ considered only conventional, freshwater pools. In response to the above comment, Parts I.B.6.d. and II.A.2.a. have been modified to specify that only dechlorinated freshwater swimming pool drainage is covered. ADEQ is not aware of any Arizona surface waters where untreated discharges from saltwater pools could be permitted. If the saltwater were properly desalinated it would be considered freshwater and thus eligible for coverage under Part I.B.6.d. Otherwise, saltwater pool drainage should be managed by alternative means (not discharged to waters of the U.S.).

15. COMMENT on Part I.C.2.

Part 1.C.2. states that the DMGP does not cover discharges from ongoing operations of permanent water treatment plants. The commenter requested that the permit be modified to provide coverage for several types of discharges from coagulation filtration arsenic treatment facilities (ATFs). The commenter cited the criteria for DMGP eligibility that these discharges would otherwise meet, and the large number of such facilities recently installed by small water systems in Arizona due to a new lower maximum contaminant level for arsenic.

Arizona Water Company

RESPONSE

ADEQ believes that there is no clear basis for making an exception to Part I.C.2. for the cited facilities, and that individual AZPDES permits are presently the only option for such discharges to waters of the U.S. ADEQ agrees that a more streamlined permitting approach would be desirable for operators of these small ATFs and for ADEQ. A separate AZPDES general permit may be developed for this purpose in the future.

It should be noted that discharges from plant construction, startup, and performance testing are normally eligible for DMGP coverage, subject to the applicable water quality limitations and BMP requirements. Discharges from testing and flushing associated with facility repairs may also be eligible. It is the ongoing operations such as filter backwashing that are excluded for all permanent water treatment plants, which are presently required to obtain individual AZPDES permits for such discharges.

No change was made to the permit in response to this comment.

Part I.C.5., BACKGROUND: This subsection in the draft permit excluded discharges of reclaimed water other than Class A+ or B+, and reclaimed water discharges to surface water types other than ephemeral or effluent-dependent waters or non-DWS use canals.

16. COMMENT on Part I.C.5.

The commenter recommended deleting this subsection because “the permit already makes clear what types of reclaimed water discharges are generally allowable and not allowable. Adding this provision “would remove ADEQ’s flexibility to extend coverage under Part I.B.7 with specific discretionary approval” for such discharges that the agency might otherwise find appropriate for DMGP coverage.

Pima County Regional Wastewater Reclamation Department

RESPONSE

The 2004 DMGP language specified the types of reclaimed water discharges eligible for routine authorization, but did not state what types were disallowed from coverage. However, the reason that discharges of reclaimed water other than Class A+ or B+ were not included for routine coverage was that they would not meet the requirements for an APP Type 1.02 General Permit under A.A.C. R19-9-B301(B)(1). De Minimis discharges are required to have the appropriate APP coverage unless exempt from APP requirements. (DMGP Part V.M.; A.R.S. §49-24(B)(9) and §49-250). Discharges of reclaimed water other than Class A+ or B+ would not meet this condition, and thus would not be eligible for DMGP coverage. ADEQ wishes to make this clear to potential applicants by stating it in the permit.

However, ADEQ finds that some flexibility is warranted in regard to the types of surface water that Class A+ or Class B+ reclaimed water may be discharged to under the DMGP. Revisions allow occasional short-term discharges of Class A+ or B+ reclaimed water to perennial, intermittent, or impaired waters, subject to Specific Approval (Part I.B.7.). Part I.C.5. still excludes reclaimed water discharges to Outstanding Arizona Waters and waters with the Domestic Water Source designated use.

PERMIT PART II – AUTHORIZATION UNDER THIS GENERAL PERMIT

Part II.A.6., BACKGROUND: This section of the draft permit provided eligibility for Facility-wide DMGP coverage for commercial, industrial, governmental, or other facilities which provide their own “non-industrial water supply for potable use, irrigation, or fire suppression.” The permit specified that this coverage would pertain only to the water system serving these purposes, and that discharges from industrial processes or from the ongoing operations of permanent water or wastewater treatment facilities are not eligible for De Minimis coverage.

17. COMMENT on Part II.A.6:

The commenter wrote that “as written, a well field operated to supply multiple uses” such as “industrial feedwater (before treatment), fire suppression water, and potable water (before treatment)” would be excluded from coverage on account of the industrial use. “We believe that this was not ADEQ’s intent as the potential discharges from well flushing and other activities would be consistent with those activities allowed by the DMGP for municipalities under the Area-wide coverage.” The commenter proposed a modification for this section of the permit to allow coverage of discharges from water systems that supply industrial uses along with any of the non-industrial uses originally specified.

Arizona Public Service Company

RESPONSE:

The commenter is correct that it was not ADEQ's intention to bar Facility-wide coverage for maintenance and testing of those water systems that have industrial supply as one of their multiple uses. Accordingly, modifications have been made to this section to clarify that such discharges from multiple-use water supply systems are eligible. Provisions have also been added to specify that for systems supplying industrial uses, **1)** DMGP coverage applies only to discharges from the supply system prior to addition of any additives associated with the industrial use, such as anti-corrosion agents; and **2)** DMGP coverage is not appropriate if discharges from the water supply system are already included in an individual AZPDES permit for the facility.

18. COMMENT on Part II.A.6:

"The facility-wide permit should not apply to irrigation systems. The question was asked at the Phoenix stakeholder meeting regarding what discharges from an irrigation system the facility-wide permit would cover since agricultural run-off is exempt. The best answer that could be provided is that it would apply to discharges from repairs. However, in such unknown and unpredictable instances the only discharges that would occur within an irrigation system are discharges of the very water the system is transporting, and moreover, such discharges would end-up in the irrigation system's own canals. But yet, the Permit requires a NOI for such discharges and places on the irrigation systems the heavy burden of designing a Best Management Practices Plan. Irrigation systems should not be burdened for an essentially temporary release of water that returns to a jurisdictional canal, and the Permit should be revised accordingly."

Irrigation & Electrical Districts Association of Arizona

RESPONSE:

In allowing Facility-wide coverage for "a facility that provides its own water supply for potable use, **irrigation**, or fire suppression", ADEQ intended potential coverage primarily for discharges from maintenance and testing of piped water systems that are used for these purposes within a facility such as a prison or a power plant. Discharges from maintenance and repair within an irrigation district may or not be subject to AZDPES permit requirements, depending on the source of the water and the type of surface water it is discharged to. Irrigation district operators should contact ADEQ if they have questions about the need for permit coverage. If AZPDES permit coverage is required, the DMGP potentially provides an expeditious means of obtaining it. The alternative would be an individual AZPDES permit. A Best Management Practices Plan would be a requirement under either type of coverage.

No change was made to the permit in response to this comment.

19. COMMENT on Part II.B.8.:

The commenter suggested striking the new provision that discharges to Indian Country are not approved until receipt of written authorization from ADEQ. "As stated in the footnote of Part I, the Director has no authority to regulate surface water in Indian Country. Streams in Indian Country are not Waters of the State because they are not under Arizona's jurisdiction. This provision implies that the Director would review for impacts in Indian Country. If the provision is kept, ADEQ should revise it to be less vague - ADEQ should provide clear criteria in the permit, Fact Sheet, or guidance describing under what circumstances a discharge 'may reasonably be expected to reach Indian Country under conditions anticipated to be present during the discharge.' "

Pima County Regional Wastewater Reclamation Department

RESPONSE

The purpose of Part II.B.8. is not to attempt to regulate surface waters in Indian Country, but to implement ADEQ Tribal Government Policy (No. 0003.001) which requires ADEQ to coordinate with Tribes on issues which may affect them. This permit documents the process that ADEQ used during the 2004-2009 DMGP permit period for proposed De Minimis discharges that were anticipated to reach Indian Country. The process is necessary to ensure that Tribes have sufficient opportunity to communicate any concerns to ADEQ, and that any such concerns are addressed.

At present there are no specific technical criteria for determining what discharges “may reasonably be expected to reach Indian Country under conditions anticipated to be present during the discharge.” The applicant should use best professional judgment in making this assessment, and should contact ADEQ if guidance is needed in specific cases.

No change was made to the permit in response to this comment.

20. COMMENT on Part II.D.

The commenter requested clarification regarding Notice of Termination (NOT) requirements for Areawide permittees: “If portions of areawide discharges are terminated (e.g., a single well is removed) is a NOT necessary for that single discharge point?”

City of Tempe Water Utilities

RESPONSE

For Areawide authorizations, a NOT is not required if single sources or portions of discharges are terminated. Part II.D.2.a. calls for submittal of a NOT to ADEQ within 30 days after the permittee “permanently ceases the discharge(s) addressed in the NOI”. Areawide, Facility-wide, and Project-wide permittees should submit NOTs only if ALL discharges included in the pertinent NOI have permanently ceased, or in the situations described in Part. II.D.2.b. through d. (alternative permit coverage or transfer of ownership/responsibility). Likewise, the conditions in Part. II.D.2.b. through d. would not trigger NOT submittal unless ALL of the covered discharges were affected. Part II.D.2.d. has been revised slightly to reflect this.

Areawide, Facility-wide, and Project-wide permittees may notify ADEQ that specific discharge sources are no longer in use by submitting a letter to that effect along with an updated “Table 1” (Specified Discharge Locations), but this is not required.

PERMIT PART III – NOTICE OF INTENT REQUIREMENTS

21. COMMENT (Part III.B.)

“...The Notice of Intent (NOI) permit application form for project wide discharge... will be very cumbersome to complete and some of the information may involve confidential business information. Additionally, since we do not know which vaults contain water until an emergency repair is initiated and we open them, the level of detail required for completing the form will be difficult to address since Qwest has almost 28,000 utility vaults in the State of Arizona. In particular, the ‘planned monitoring parameters of concern’ that is currently required to be listed at each location, are already covered in our best management practices.”

“The proposed requirements for quarterly or even yearly analytical sampling would be difficult to achieve since we do not know which of our utility vaults contain water until we open them in order to affect a repair. Waiting to analyze water samples before initiating emergency repairs could cause significant delays in restoring vital telecommunication services. We strongly believe that Qwest’s BMPs are effective in managing water in our utility vaults and the waters of the US will be appropriately protected.”

“In summary, Qwest believes that our current best management practices for pumping water from telecommunications vaults already captures the intent of the draft 2009 DMGP and telecommunications vaults should be exempt. However, if Qwest is required to submit the NOI for Qwest’s telecommunications vaults [we request] that only Qwest’s BMPs and general information on utility vault locations be included in the permit.”

Qwest

RESPONSE

Much of the information required in a Project-wide NOI can be provided in general terms when there are numerous or unpredictable potential discharge points. Table 2 (“Description of Any Unspecified Discharge Locations”) in the Discharge Information Form of the NOI is intended for this purpose. Table 2 calls for planned monitoring parameters for each type of discharge and type of receiving water, rather than at each location. Moreover, the permit (Appendix A, Section A.1.) now contains language clarifying that ADEQ may modify the monitoring requirements prescribed in Appendix A, Tables A – D, in specific cases based on water quality data submitted and/or other factors. (See Comment/Response #40.)

The draft Project-wide Discharge Information Form released during the public comment period included a Table 2. However, the draft permit itself did not specifically provide for the use of Table 2 by Project-wide applicants; the “NOTE” following Part III.B.10. mentioned only Areawide and Facility-wide applicants. Many eligible projects (such as wellfield testing) would not be expected to have unspecified discharge locations. However, in light of the numerous discharge points and unpredictable locations potentially involved in vault dewatering, this section has been modified to allow Project-wide applicants to use Table 2. ADEQ anticipates that large numbers of telecommunications vaults would be described in Table 2 rather than listed specifically in Table 1. Confidentiality in relation to public records is addressed in A.R.S. §49-205.

ADEQ appreciates the fact that Qwest has a BMPP designed to prevent the discharge of contaminants from vault dewatering activities. However, ADEQ does not have the authority to exempt telecommunications vaults from AZPDES permit requirements where discharges have the potential to reach waters of the U.S. ADEQ believes that sufficient flexibility is provided in the permit (with the changes indicated above) to address the commenter’s concerns about the NOI process and the extent of discharge monitoring required. Therefore no other changes have been made in response to this comment.

22. COMMENT on Part III.B.6.

The commenter suggested striking the first phrase (“Whether the proposed discharge is in Indian Country”), because “such discharges are already clearly precluded from coverage under Part I.A.”

Pima County Regional Wastewater Reclamation Department

RESPONSE

The cited information item is needed in the NOI submittal so that applicants for discharges near tribal boundaries are reminded to check whether the location is inside or outside of tribal lands. This item has also proven useful in cases where applicants submitted NOIs for discharges in Indian Country, not realizing they could not be covered under the DMGP.

No change has been made to the permit in response to this comment.

23. COMMENT on Part III.B.9.

“At the end of the sentence, add the word ‘registered’ before the word ‘well’ so that it is clear that a permittee need only supply the registration number if the well is registered.”

Pima County Regional Wastewater Reclamation Department

RESPONSE

Part III.B.9. calls for the Arizona Department of Water Resources (ADWR) well registration number to be included in the NOI if the proposed discharge is from a well. All wells in the State of Arizona must be registered with the ADWR (A.R.S. § 45-593). For a new well, registration occurs as part of the authorization to drill. Occasionally the registration number is not known to the DMGP applicant at the time the NOI is being prepared. A statement has been added to the corresponding section of the Fact Sheet that in this case the applicant may indicate so on NOI, and then submit the information to ADEQ as soon as possible as a follow-up.

24. COMMENT on Part III.B.10.I.

“This permit section requires permittees to name the closest perennial or intermittent water near the discharge point and the approximate distance from the discharge point to the perennial or intermittent water. Given the number of ephemeral waters within Arizona it will very difficult in many cases for a permittee to provide the requested information unless ADEQ provides a map or some other type of information that will help permittees locate intermittent and perennial waters. In addition to this information, we request that ADEQ include a reference within this permit section to Appendix B, Surface Waters and Designated Uses from Arizona Title 18, Chapter 11 Surface Water Quality Standards rules. These reference documents will provide crucial information for permittees to identify the requested information.”

Pima County Regional Wastewater Reclamation Department

RESPONSE

ADEQ may develop such a map or on-line resource for public use at some time in the future. For the present, it may be helpful to consult USGS topographic quadrangle maps along with A.A.C. R18-11 Appendix B. Applicants who need assistance in determining the closest perennial or intermittent water may contact ADEQ De Minimis General Permit program staff for help. References to A.A.C. R18-11 Appendix B are included in the definitions of “Perennial water” and “Intermittent water” in Part VII. of the permit.

No change was made to the permit in response to this comment.

25. COMMENT on “NOTE” at end of Part III.B.10

The commenter requested that guidelines be provided for including “unspecified” Areawide discharges (such as hydrant flushing) in the NOI, when they go to perennial waters or EDWs. The heading of the draft Areawide Table 2 (for unspecified discharges) disallowed the use of Table 2 for these receiving waters; but the alternative information & mapping requirements are unrealistic for such discharges.

City of Tempe

RESPONSE

This comment was addressed by allowing discharges with unspecified locations (as listed in Table 2 of the Areawide, Project-wide, or Facility-wide NOI) to go to any type of surface water, subject to certain conditions and limitations. The language that categorically disallowed the use of Table 2 for certain types of surface waters has been removed from Part III.B.10 and from the Table 2 form.

PERMIT PART IV – SPECIAL CONDITIONS

26. COMMENT on Part IV.B.2.

“This prohibition of chemicals should allow that chemical addition may be necessary to dechlorinate a discharge. Suggest adding the phrase, "except for additives to promote dechlorination as provided for in Part IV.D.2.C.”

Pima County Regional Wastewater Reclamation Department

RESPONSE

The prohibition on introducing additives to the discharge already includes an exception for additives that are described in the permittee’s BMPP and subject to monitoring if required under Part IV.E. Chemicals to be used for dechlorination should be described in the BMPP in accordance with Part IV.D.2.b., so they would fall under that existing exception. They would be required to be monitored under Part IV.E. only if they are determined to be constituents of concern.

No change was made to the permit in response to this comment.

27. COMMENT on Part IV.C.2.

The commenter suggested rewording the first sentence in this section because, as written in the draft permit, it implied that an action level exceedance may be a permit violation.

Pima County Regional Wastewater Reclamation Department

RESPONSE

It is true that an exceedance of an action level is not a permit violation, although it triggers the requirement for certain responses by the permittee. The referenced sentence in the draft permit has been revised to read, “Exceedance of an AL, in itself, is not a permit violation”.

28. COMMENT on Part IV.D.2.c.i.

The commenter suggested avoiding use of the term “point of compliance” in this section, since that is a defined term within the Aquifer Protection Permit program.

Pima County Regional Wastewater Reclamation Department

RESPONSE

The referenced sentence has been revised to read, “Unless otherwise stated by ADEQ for a specific discharge, the limitation for total residual chlorine (TRC) concentration shall apply at the point of discharge into a surface water.”

29. COMMENT on Part IV.D.2.c.ii.

“The ‘NOTE’ text in this section of the draft permit implies that a permittee has an obligation to discharge total residual chlorine (TRC) at a level that is far lower than that allowed by the applicable surface water quality standard. Although Pima County agrees that all reasonable steps should be taken by permittees to discharge the minimal amount of pollutants possible, we believe that a ‘suggested pollutant discharge level’ is not appropriate for inclusion within an enforceable discharge permit. This language has the potential to cause confusion both among permittees and the agency responsible for enforcing the provisions of the permit, and therefore we request that the ‘NOTE’ language be deleted from this permit.”

“In addition in the NOTE and in Appendix A, Table A, the permit states that there is a numeric limit for chlorine discharge to ephemeral waters. However, there is no chlorine numeric limit for Aquatic and Wildlife Ephemeral (A&We) designated use. There is a chlorine numeric limit of 4.0 mg/L for waters with designated use of Partial Body Contact (PBC), and in the SWQS rule ADEQ has specified the PBC use for all listed surface waters that are ephemeral waters. ADEQ should revise the permit to clarify that the numeric limit is derived from PBC designated use.”

Pima County Regional Wastewater Reclamation Department

RESPONSE

The referenced “NOTE” regarding recommended TRC levels for discharge to ephemeral waters has been removed from the permit. A similar item has been added in the Fact Sheet under Part IV.D., including a clarification of the basis of numeric TRC limit for such waters.

30. COMMENT (pertinent to Part IV.D.2.c.ii. and Appendix A limitations for TRC

The commenter recommended that ADEQ conduct an analysis of costs/benefits resulting from conditions of the permit, as well as an environmental impact study, to focus on “chemical usage needed for dechlorinating huge amounts of potable water, fuel usage for pumps and vector trucks to prevent discharge of potable water, impact on Phoenix air quality, and benefit (if any) to the receiving waters.”

City of Tempe

RESPONSE

Although this comment was submitted in response to a passage in the Fact Sheet, ADEQ believes that it relates primarily to Part IV.D.2.c.ii. of the permit. That provision of the BMP section states that the

discharge must meet the permit limit for total residual chlorine (TRC). The permit limits for TRC (DMGP Appendix A, Tables A – C) are the same as the applicable numeric Surface Water Quality Standards (A.A.C. Title 18, Chapter 11, Article 1, Appendix A). These standards exist independently of the DMGP, and the numeric discharge limitations in the DMGP must reflect them.

Under drinking water regulations, potable water may contain a TRC residual up to the MCL of 4.0 mg/L (4,000 µg/L). Actual TRC residuals are usually lower, and potable water normally meets the TRC limits for ephemeral waters (4,000 µg/L). However, it may exceed the TRC permit limits for EDW, perennial, and intermittent waters (19 µg/L). Discharges of potable water to these surface water types typically require removal of chlorine prior to entering the surface water. The permit (both draft and final) allows for alternatives to on-site dissipation and chemical dechlorination, subject to review and authorization by ADEQ (Part IV.D.2.c.iii.). ADEQ believes the DMGP provides as much flexibility as possible for these types of discharges, while still being consistent with regulatory requirements.

No change has been made to the permit in response to this comment.

31. COMMENT on Part IV.D.3.

The commenter agreed that the BMPP should be revised as outlined in this section, but stated that the requirement to resubmit the Plan for every change is impractical and a disincentive for permittees to improve their BMPPs.

City of Tempe

RESPONSE

This section of the permit has been revised to provide that the BMPP may be modified only if the changes will result in equivalent or greater effectiveness in minimizing pollutants in the discharge; and that resubmittal of the revised/updated BMPP to ADEQ is not required unless specifically requested. The other requirements of this section remain substantially the same as in the PN draft.

32. COMMENT on Part IV.D.5. – Deficiencies in the BMPP.

“Depending on what modifications ADEQ requires, 15 days may not be an adequate amount of time to correct BMP deficiencies. Flexibility should be built into this requirement.”

City of Tempe Water Utilities

RESPONSE

This section of the draft permit (and the final) states that the permittee must take the required actions within 15 days of receipt of notification from the Department, or as otherwise provided in writing by ADEQ. Under this proviso, ADEQ may allow a timeframe longer or shorter than 15 days based on the specific situation. This provides the flexibility to allow additional time where warranted. Permittees who receive such a notification may contact ADEQ if they have concerns about the time allowed to correct BMP deficiencies.

No changes were made to the permit in response to this comment.

PERMIT Part VII – DEFINITIONS

33. COMMENT on Part VII.B.

"The definition of 'best management practices' should use the statutory definition found in A.R.S. 49-201.3, which states, "Best management practices means those methods, measures or practices to prevent or reduce discharges and includes structural and nonstructural controls and operation and maintenance procedures. Best management practices may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into receiving waters. Economic, institutional and technical factors shall be considered in developing best management practices."

Pima County Regional Wastewater Reclamation Department

RESPONSE

The definition of "best management practices" has been revised to match the statutory definition at A.R.S. §49-201.3.

34. Comment on Part VII.B.

"As discussed at the public meeting on 9-17-09, the definition of 'De Minimis discharge' should be modified to replace the term 'consecutive days' with the term 'lasts no more than 30 continuous days'. ...The change from the term consecutive to continuous should also be made in Part I.B.8 of the permit."

Pima County Regional Wastewater Reclamation Department

RESPONSE

Revisions have been made in the cited sections and in Part II.B.7. to clarify that ADEQ approval for an extended discharge period is required for discharges that will occur continuously for longer than 30 days. This reflects ADEQ's implementation of the corresponding provision in the 2004 DMGP. (The former Part I.B.8. is now a "NOTE" at the end of Part I.B.)

PERMIT - APPENDIX A

35. COMMENT on Appendix A, Sections A.5. and B.1.

The commenter requested that ADEQ remove or significantly increase the 0.25 MGD threshold that triggers the requirement for photographic documentation and reporting of monitoring results. The commenter stated that that 0.25 million gallons is a relatively small amount of water when operating a municipal water utility, specifically when wells are involved.

City of Tempe

RESPONSE

Other stakeholders submitted similar comments during the informal review period for the draft permit. It appears that during the term of the 2004 DMGP, most of the discharges that met the 0.25 MGD threshold were actually 0.50 MGD or more. The threshold for photo-documentation and data reporting has been retained in the permit, but has been raised from 0.25 to **0.50** million gallons in any one day.

36. COMMENT on Appendix A, Section B.1.a.

The commenter pointed out that field logs are not required to be submitted unless requested by the Director, and suggested that ADEQ should take the same discretionary approach for the photographic documentation called for in Appendix A, Part A.5. (as numbered in the final permit).

Pima County Regional Wastewater Reclamation Department

RESPONSE

Routine submittal of photographic documentation for the higher-volume and longer-duration discharges (as specified in Appendix A, Part A.5.) is needed in order for ADEQ to be aware of any problems with the effectiveness of best management practices, primarily those used to prevent erosion, scour, and sedimentation. The discretionary approach suggested by the commenter is provided for discharges to concrete-lined canals or other conveyances consisting of impervious material, in the "EXCEPTIONS" under Appendix A.5.

No change was made to the permit in response to this comment.

37. COMMENT on Appendix A, Tables A, B, and C. (regarding table format).

The commenter suggested that the tables would be easier to interpret if ADEQ listed the Discharge Limitations in a separate section of each table from the section listing Action Levels.

Pima County Regional Wastewater Reclamation Department

RESPONSE

The pertinent sections of Appendix A, Tables A – C, have been reorganized to list Discharge Limitations separately from Action Levels, as suggested by the commenter.

38. COMMENT on Appendix A, Tables A, B, and C. (regarding discharge limitations).

The commenter stated that the description pertaining to discharge limitations in these tables is vague, and inquired whether all of the parameters listed with limitations are considered to be constituents of concern (COCs).

City of Tempe

RESPONSE

The cited description states that the listed parameters "*may be of concern for De Minimis discharges,*" and that "*not all of these are required for monitoring for a given discharge, unless specified by ADEQ or identified as constituents of concern by ADEQ or the permittee.*" ("Constituent of concern" is defined in DMGP Part VII.B.) Therefore the listed parameters should be evaluated by the permittee when designing a discharge monitoring plan, but they are not necessarily considered COCs.

No change has been made to the permit in response to this comment.

39. COMMENT on Appendix A, Tables A, B, and C. (regarding flow rate / duration of flow).

“Would it be acceptable to substitute total volume for flow rate and duration of flow as a more readily quantified discharge measure?”

City of Tempe

RESPONSE

Flow rate and duration of flow are more useful for characterizing the potential impacts of discharges than total volume. ADEQ believes that these parameters called for in the permit are appropriate in cases where per-discharge monitoring is required. Note that Appendix A Part A.1. and the corresponding footnotes in each table allow summary reporting for frequent/regular discharges, in lieu of per-discharge monitoring.

No change has been made to the permit in response to this comment.

40. COMMENT on Appendix A, Tables A-D

The commenter requested that the permit allow an initial demonstration of water quality compliance for boron in cases where it is a potential constituent of concern (COC), in lieu of the routine WQ monitoring of COCs called for in Appendix A, Tables A-D.

City of Tempe

RESPONSE

Language has been added to DMGP Appendix A, Section A.1., clarifying that ADEQ may modify the monitoring requirements prescribed in Appendix A, Tables A – D, for potential COCs in specific cases based on water quality data submitted and/or other factors.