

**ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT FOR INFREQUENT DISCHARGES OF DOMESTIC WASTEWATER TO WATERS OF
THE UNITED STATES (GENERAL PERMIT FOR INFREQUENT DISCHARGERS)
AZGP2012-001**

**RESPONSE TO COMMENTS
(A.A.C. R18-9-A908(E)(2))
July 20, 2012**

Administrative Record

On December 16, 2010, the Arizona Department of Environmental Quality (ADEQ or Department) proposed several new Arizona Pollutant Discharge Elimination System (AZPDES) general permits as potential alternatives to individual AZPDES permits for eligible classes of facilities with point source discharges to Waters of the United States. On January 13, 2011, the Department presented the initial drafts of two new AZPDES general permits, including the General Permit for Infrequent Dischargers, for stakeholder review and discussion. The Department held two additional informal stakeholder meetings to review and discuss the revised drafts of the two general permits on January 27 and March 24, 2011.

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 new AZPDES General Permit for Infrequent Dischargers.

On September 16, 2011, the public notice for the General Permit for Infrequent Dischargers (AZGP2012-001) was published in the Arizona Administrative Register. The Public Comment period closed on October 17, 2011.

Comments were received on the public noticed draft permit from the Grand Canyon Chapter of the Sierra Club (Sierra Club) and the Salt River Project.

In addition to changes to the permit made in response to the comments from the Sierra Club and the Salt River Project, ADEQ made minor changes to the final permit and fact sheet for purposes of clarification regarding fees, monitoring requirements, and establishing additional limits. Finally, several minor corrections were made to the permit, fact sheet and appendices pertaining to formatting, punctuation, spelling and cross-references.

General

Information regarding fees was moved from page 2 of the permit to Part III. A reference to the fee rules was added to Part IX.B.

Part IV.B was revised to clarify how ADEQ will determine if additional limits will be added to the DAC.

A footnote was added to Tables 3 and 4.c in Part IV to clarify the monitoring frequencies.

Part VII.E was revised to clarify Whole Effluent Toxicity (WET) follow-up testing requirements for intermittent discharges.

Grand Canyon Chapter of the Sierra Club (Sierra Club) Comments

Comment 1: Criteria for Issuing General Permit

The “infrequent discharger” general permit does [sic] meet criteria for issuing a general permit prescribed [sic] A.A.C. R18-9-C901.

The proposed “infrequent discharger” general permit is flawed because it does not meet regulatory criteria for issuing general permits prescribed by the AZPDES rules. The regulatory criteria for issuing a general permit are summarized in the AZPDES permit rules at A.A.C. R18-9-C901. Under this rule, ADEQ may issue a general AZPDES permit for a facility category located within a common geographic area that: 1) involves the same or substantially similar types of operations, 2) discharges the same types of wastes or engage in the same type of disposal practices, 3) requires the same effluent limitations, operating conditions, and standards, 4) requires the same or similar monitoring, and 5) is more appropriately controlled under a general permit than under an individual permit. The proposed “infrequent discharger” general permit does not meet with these criteria.

First, the category of discharges regulated under the “infrequent discharger” general permit is not located within a common geographic area. The proposed “infrequent discharger” general permit will regulate widely scattered domestic WWTPs located throughout the entire State of Arizona, excluding Indian country. The requirement that general permits be developed for facilities “located within a common geographic area” is not met.

Second, the proposed general permit does not involve the same or substantially similar types of operations. While the proposed general permit regulates discharges of “secondary treated effluent from domestic wastewater treatment plants,” the facility class of domestic WWTPs ranges in size from small package WWTPs to large water reclamation plants treating up to 20 million gallons per day. Also, the wastewater treatment technologies employed by facilities within the class of domestic WWTP vary from relatively simple wastewater stabilization ponds to complex WWTPs employing advanced wastewater treatment technologies.

Third, facilities in the facility class of “infrequent dischargers” cannot be regulated under the same effluent limitations, operating conditions, and water quality standards. The facility class includes both minor (< 1 mgd) and major WWTPs (> 1 mgd) with different regulatory requirements that apply to them under the AZPDES permit program. The facility class of “infrequent dischargers” encompasses discharges to the full spectrum of receiving waters in the state with varying water quality standards (e.g., discharges to ephemeral waters that create effluent dependent systems, discharges to warm water or cold water streams with differing aquatic life and wildlife standards, discharges to receiving waters with varying human health-related and use standards). The facility class of WWTPs will require the development of different water quality-based effluent limitations based on the varying water quality standards applicable to the receiving waters. Also, discharges to impaired waters for which TMDLs have been completed will include wasteload allocations that can only be addressed in an individual AZPDES permit.

Finally, the proposed general permit will include infrequent discharges from a wide range of WWTPs with design flows (from < 1 mgd to 20 mgd) that will have different monitoring requirements. It is not appropriate for ADEQ to regulate a relatively small number of infrequent dischargers, of different sizes, using a broad range of wastewater treatment technologies, and discharging to the full spectrum of receiving waters spread across the entire state under the proposed general permit. It is more appropriate for ADEQ to regulate discharges from “infrequent dischargers” under individual AZPDES permits that are developed on a case by case basis.

Response 1

ADEQ disagrees. First, the “common geographic area” for this general permit is the same as that for other existing and proposed AZPDES general permits (the existing Multi-sector General Permit, Construction General Permit, and De Minimis General Permit, and the draft Minor WWTP General Permit), which is the state of Arizona. A.A.C. R18-9-C901.A requires that the geographic area correspond to “existing geographic or political boundaries...”, and the state of Arizona is consistent with this requirement. Second, although WWTPs can and do utilize different technologies, the basic principles are the same, and the treatment systems must all meet certain minimum requirements. Therefore, these are the same or substantially similar

operations. Third, all WWTPs must meet the same technology-based effluent limitations for biological oxygen demand, total suspended solids, and pH. All WWTPs are also required to monitor for *E. coli*, total residual chlorine (when disinfection by chlorination is used, even only as back-up), and oil & grease. Except for pesticides, the size of the plant (design capacity) only affects the required monitoring frequency, not the monitoring parameters. The general permit accounts for differences in water quality standards by the requirement for "laboratory reporting limits" based on the most conservative of the standards. If a wasteload allocation from a TMDL applies to a facility, or if additional water quality-based limitations are deemed necessary based on effluent quality data, the general permit allows for additional monitoring requirements to be added to the DAC, as do the other general permits. Therefore, the facilities can and will be regulated under essentially the same limitations, standards, and monitoring requirements.

The intended category of WWTPs for this permit was major WWTPs because there are few minor WWTPs that have discharges of such limited duration and frequency. Most minor WWTPs that do not discharge continuously discharge on a seasonal basis. ADEQ decided, however, that there was no reason to exclude the minors. It should be noted that because the permittees are restricted to very infrequent discharges, the actual volume of discharges from the largest WWTPs (20 mgd) will be less overall than that of a minor WWTP discharging continuously. In addition, the larger WWTPs generally have the more advanced treatment technologies and the better quality effluent, even with industrial users.

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

Comment 2: Legislative Guidelines for Issuing General Permit

The "infrequent discharger" general permit does meet legislative guidelines for issuing a general permit prescribed A.R.S. §49-245.

The proposed general permit is inconsistent with general legislative guidelines for issuing a general permit prescribed in A.R.S. §49-245. While A.R.S. §49-245 applies specifically to the issuance of general Aquifer Protection Permits (APPs), the statute provides useful legislative guidelines for the issuance of AZPDES general permits. A.R.S. §49-245 states that ADEQ may issue a general permit for a "defined class of facilities" if all of the following apply: 1) The cost of issuing individual permits cannot be justified by any environmental or public health benefit that may be gained from issuing individual permits, 2) the facilities, activities, or practices in the class are substantially similar in nature, and 3) ADEQ is satisfied that appropriate conditions under a general permit for operating the facilities or conducting the activity will meet applicable statutory requirements. Again, the proposed AZPDES general permit for "infrequent dischargers" does not meet these statutory criteria and should be withdrawn.

Response 2

ADEQ disagrees. The primary reason ADEQ is issuing a general permit for infrequent dischargers is precisely because the cost of issuing individual permits, both to the Department and the regulated community, cannot be justified by any environmental or health benefit that may be gained from issuing individual permits for these facilities. The majority of existing facilities that are expected to qualify for this permit are major WWTPs (design capacities > 1 mgd) which have reuse permits or other options for effluent disposal and need permit coverage only for emergency situations or during annual maintenance of pipelines or canals. Many of these facilities rarely, if ever, discharge. The receiving waters for most of these facilities will be ephemeral or effluent-dependent waters. As noted in the response to Comment #1, the facilities are substantially similar in nature, and ADEQ will require sufficient monitoring under the general permit to ensure the designated uses for the receiving waters are protected.

ADEQ also believes that providing the option for coverage under a general permit for these facilities is protective of human health and the environment. Due to the new hourly and annual fees charged for individual AZPDES permits, many facility owners/operators may decide to terminate or not renew the individual permits for facilities which rarely, if ever, discharge. This could result in more "accidental" and unpermitted/unregulated discharges from unpermitted facilities when an emergency occurs. In such situations, there would be no current monitoring data available to determine the impacts of the discharge. Instead of ensuring the applicable water quality standards are being met before any discharges occur, any compliance actions would be taken after the fact and would be punitive rather than preventive.

The monitoring and other requirements in this general permit will be the same or similar to an individual permit. ADEQ will review all the monitoring data and the information submitted in the Notice of Intent (NOI) in the same way and with the same scrutiny as is currently done with an application for an individual permit. If the analysis indicates that a limit for a specific pollutant is required, limits will be established and specified in the Discharge Authorization Certificate (DAC), consistent with 40 CFR 122.44(d)(1). The cost savings for ADEQ will be from the reduced amount of paperwork and administrative work, and the permittees will benefit from reduced flat fees paid annually instead of the unpredictable hourly fees paid for individual permit issuance.

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

Comment 3: Definition of Facility Class

ADEQ has not adequately defined the facility class for the “infrequent discharger” general permit.

The facility class of “infrequent dischargers” is inadequately defined. The facility class is over-inclusive. It includes virtually all domestic wastewater treatment plants with design flows of less than 20 million gallons per day that are required to obtain an AZPDES permit. ADEQ defines the facility class for the “infrequent discharger” general permit as having the following characteristics: 1) the facility class consists of domestic wastewater treatment plants (WWTPs), 2) the domestic WWTPs provide a minimum of secondary treatment, 3) the domestic WWTPs discharge to “waters of the United States,” and 4) the discharges from a domestic WWTP can be no [sic] than twice a year, for no more than 14 consecutive days, and there must be at least 30 days between discharge events.

Sierra Club agrees that the “domestic wastewater treatment plant” criterion is useful in defining the facility class for the “infrequent discharger” general permit. At least we know that wastewater treatment plants at industrial facilities and other types of discharging facilities that are not domestic wastewater treatment plants are ineligible for coverage under the draft “infrequent discharger” general permit. However, the remaining criteria do not sufficiently define the facility class of domestic wastewater treatment plants eligible for coverage under the proposed general permit. Under the Clean Water Act, all domestic wastewater treatment plants that discharge to “waters of the United States” must obtain either an individual or a general AZPDES permit to authorize the discharge. Similarly, all domestic wastewater treatment plants regulated under the AZPDES permit program must comply with technology-based requirements prescribed in the Clean Water Act and must provide a minimum level of secondary treatment. Under these definitional criteria, all domestic wastewater treatment plants in Arizona with design flows less than 20 mgd that are required to obtain an AZPDES permit are eligible for “infrequent discharger” general permit coverage.

The only criterion that ADEQ has put forward in an attempt to further define the facility class and limit eligibility for the “infrequent discharger” general permit coverage relates to the expected frequency of discharge (i.e., twice a year, maximum of 14 consecutive days, and no more than 30 days between discharge events). However, these discharge frequency criteria do not limit the facility class in any meaningful way. First, the frequency of discharge is an operational criterion that is within the control of the permit applicant. A person seeking coverage under the “infrequent discharger” general permit for a domestic wastewater treatment plant can allege in an NOI that it will comply with the proposed limits on discharge frequency and duration to establish eligibility under the general permit. ADEQ will have no way of determining whether a domestic WWTP can actually limit its discharge to twice per year for no more than 14 consecutive days. Domestic wastewater treatment plants in the facility class can be of all designs and can vary in design capacity from the smallest wastewater treatment package plants to large regional wastewater treatment plants with potential discharges of up to 20 million gallons of effluent per day. The proposed facility class includes domestic WWTPs that employ the full spectrum of wastewater treatment technologies from basic secondary treatment to the most advanced wastewater treatment technologies. Finally, the facility class includes domestic WWTPs that discharge to a broad spectrum of receiving waters from discharges to ephemeral streams (e.g. washes and arroyos) to discharges to perennial waters with varying water quality standards.

Sierra Club is concerned that ADEQ will issue “infrequent discharger” general permits to any applicant who operates a domestic WWTP and who asserts that they will comply with the discharge frequency and duration requirements. Over time, the “infrequent discharger” general permit could replace individual AZPDES permits. In our view, there are some facility classes that shouldn't be regulated under a general permit

because of the size of the facilities (e.g. large regional wastewater treatment plants), the complexity of the treatment technologies employed, the effluent characteristics of the discharge from the WWTP, the receiving waters to which they discharge (e.g., perennial surface waters or impaired waters listed on the §303(d) list), or the potential risks to public health and the environment. For example, Sierra Club does not think that it is a good idea to regulate any major wastewater treatment plant with a design flow over 1 MGD under the proposed “infrequent discharger” general permit. All major facilities with the capacity to discharge millions of gallons of effluent should be regulated under individual AZPDES permits designed for the individual facility and its discharge characteristics. For example, it makes no sense to regulate discharges from large, complex wastewater treatment plants with significant industrial users or with local pretreatment programs under the same general permit conditions that apply to small treatment plants treating domestic sewage only.

Response 3

See the response to Comment #1. ADEQ has clearly defined the facility class eligible for coverage under this permit. The class is WWTPs with design flows < 20 mgd that discharge under a very specific set of conditions. Permittees are required to provide information regarding the discharge frequency and duration in the NOI (see Part III. B.10.h). In addition, most if not all infrequent dischargers will have reuse or recharge permits, information about which is requested in Part III.B.8. The submittal of Discharge Flow Records is required in both the individual and general permits. ADEQ maintains these records and reviews them when permittees renew their permits. If the frequency or duration of past discharges has exceeded the eligibility requirements, ADEQ will not authorize coverage under this permit (see Part II.B.2). ADEQ also has the authority to require anyone with coverage under this permit to obtain an individual permit if the discharge exceeds the eligibility requirements (see Part II.G.1). Nevertheless, additional requirements have been added to Part III.B.10.h: “...explain why the facility qualifies as an “infrequent discharger” as specified in Part 1.A of this permit and how the limited frequency and duration of discharges allowed by this permit will be achieved” and to Footnote 3 to Table 1 in Part IV.A: “The duration and frequency of discharges shall not exceed the applicability requirements specified for “infrequent dischargers” in Part 1.A.”

Comment 4: Cost/Benefit Analysis

ADEQ should demonstrate through cost/ benefit analyses that regulation of “infrequent dischargers” under individual AZPDES permits is unjustified and that significant cost savings or efficiencies will be gained by using a general permit approach.

One of the basic prerequisites to justify issuance of a general permit for a facility class is that the cost of issuing individual AZPDES permits to facilities in the class is not justified by the environmental or public health benefits to be gained by issuing individual permits. Regulatory agencies usually issue general permits for a facility class comprised of many (i.e., hundreds) of individual discharging facilities that are substantially similar in nature where significant efficiencies and cost savings are gained by covering many facilities under a single general permit. The basic argument in favor of issuance of a general permit is that it is much more efficient for the agency to regulate numerous facilities under a single general permit rather than issuing hundreds of individual AZPDES permits to individual members of the defined facility class. For example, it makes sense and it is efficient for ADEQ to develop a general permit to regulate discharges from hundreds of municipal storm water outfalls rather than to regulate discharges from each individual outfall under an individual AZPDES permit.

The facility class of “infrequent dischargers” cannot be justified on either cost savings or efficiency grounds. It is clear that the facility class for the “infrequent discharger” general permit encompasses a relatively small number of WWTPs. ADEQ estimates that only 20 to 40 domestic WWTPs will be eligible for coverage under the proposed “infrequent discharger” general permit (See ADEQ fact sheet, p. 2). If one accepts the upper end of this range as the number of WWTPs that will be regulated by the “infrequent discharger” general permit (i.e., 40 WWTPs), the cost savings and efficiencies gained by employing a general permitting approach are still minimal. Forty WWTPs equally distributed over the 5-year term of an AZPDES permit translates to 8 AZPDES permits per year (at most). ADEQ currently has 6 AZPDES permit writers on staff (personal communication with Marnie Greenbie). At current staffing levels, this translates to approximately one individual AZPDES permit per FTE per calendar year. The proposed “infrequent discharger” general permit may save the administrative costs associated with individual AZPDES permit development for an estimated 8 individual AZPDES permits per year (at most!). The minimal cost savings for this small number of permits does not justify the proposed “infrequent discharger” general permit.

ADEQ should withdraw the “infrequent discharger” general permit because of the large variability in the sizes and designs of domestic WWTPs that could be regulated under the general permit, the potential differences in receiving waters, and the risk of inadequate or inappropriate regulation of discharges under the general permit conditions that are not tailored for the discharging facilities. 20 to 40 “infrequent dischargers” should be regulated under individual AZPDES permits that are developed on a case-by-case basis.

Response 4

No formal cost/benefit analysis is necessary. There are currently approximately 160 active individual AZPDES permits which must be renewed every five years. Assuming the permit terms/expiration dates are evenly distributed over a given year (they aren't), ADEQ processes an average of 32 permits a year. As of this writing, there are five AZPDES permit writers. The permit writers each have additional duties, and some are assisting with other types of permits or other programs. Reducing the administrative workload associated with even four individual permits a year would be a substantial savings. As explained in the response to Comment #2 above, the facility owners and the taxpayers/feepayers who support them will also benefit, and these savings will not come at any cost to human health or the environment.

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

Comment 5: Facility Class

The facilities, activities, or practices of the class of “infrequent dischargers” are not substantially similar to be eligible for general permit coverage.

The proposed facility class of “infrequent dischargers” is comprised of domestic WWTPs of all sizes and types discharging to the full spectrum of receiving surface waters. The facility class of infrequent dischargers encompasses domestic wastewater treatment plants of all design capacities, from the smallest package treatment plant serving a RV park to satellite wastewater reclamation facilities to large wastewater treatment plants serving municipalities that discharge up to 20 million gallons per day. The “infrequent discharger” facility class also encompasses domestic wastewater treatment plants employing a broad spectrum of treatment technologies, from the most advanced water reclamation facilities to simple wastewater stabilization ponds. These varying types of wastewater treatment plants do not involve the same or substantially similar types of wastewater treatment operations required by A.A.C. R18-9-C901 for authorization to discharge under a general permit.

The facility class encompasses discharges to the full spectrum of “waters of the United States” in Arizona except Outstanding Arizona Waters. The proposed facility class includes domestic wastewater treatment plants that infrequently discharge to all types of surface waters, including dry washes, intermittent and perennial streams, and lakes and reservoirs. As ADEQ is well aware, these different types of receiving waters may have different water quality standards that apply to them as well as different tiers of anti-degradation protection. “Infrequent dischargers” also may discharge to impaired waters on the §303(d) list with Total Maximum Daily Load analyses (TMDLs) with corresponding wasteload allocations for point source discharges. Other facilities in the class may discharge to high quality waters subject to Tier 2 anti-degradation protections which restrict significant degradation of water quality of the receiving waters. ADEQ cannot develop appropriate general permit conditions for infrequent dischargers as a class because they discharge to such a broad spectrum of receiving waters. For this reason, the class of infrequent dischargers should be regulated under individual AZPDES permits so appropriate permit conditions can be developed on a case-by-case basis to maintain and protect receiving water quality.

Response 5

Regarding the facility class, see the responses to Comments #1 and #3. Regarding the full spectrum of receiving waters, the majority of AZPDES dischargers discharge to ephemeral or effluent-dependent waters. Nevertheless, ADEQ decided that given the very low frequency of discharges, owners of facilities that discharge or would discharge to intermittent or perennial waters should have the opportunity to apply for coverage under this permit. If the applicant cannot demonstrate that the designated uses of the receiving water will be protected, ADEQ will deny coverage under this permit. Additional requirements for new or expanded discharges to impaired waters are specified in Part III.B.17. Any existing waste load allocation for

a discharge will be incorporated as a limit in the DAC. The receiving water is not a factor in determining similar facilities, and other ADEQ general permits allow discharges to the full spectrum of receiving waters.

ADEQ agrees that appropriate conditions cannot be developed in a general permit to address Tier 2 anti-degradation protections for new or expanded discharges. Therefore, ADEQ has added the following to the prohibitions in Part I.A of the permit: "2) the discharge is a new or expanded regulated discharge to a perennial water," and the following to the NOI requirements in Part III.B.15 of the permit: "Note: A new or expanded discharge to a perennial water is not eligible for coverage under this permit due to antidegradation review requirements." Clarifying language has also been added to Sections I and IX of the Fact Sheet.

Comment 6: Permit Term

A 5-Year Term Should Be Stated in the General Permit and in the Discharge Authorization Certificate.

The term of the draft "infrequent discharger" general permit is unstated. While the cover page includes a place for an issuance date, effective date, and an expiration date, there is no text in the general permit stating that the term of the "infrequent discharger" general permit is 5 years. ADEQ should include language clearly stating that the proposed general permit is for a 5-year term. Also, the general permit should state that a Discharge Authorization Certificate (DAC) also is issued for a 5-year term.

ADEQ should make the 5-year term explicit in the general permit and require that the person who owns or operates a facility regulated by the general permit submit a new NOI to renew general permit coverage before the expiration date and pay applicable fees authorized by A.R.S. §49-203. Since ADEQ does not receive adequate state general funding to support the AZPDES permit program and is dependent on fees to support its water quality programs, ADEQ has a financial interest in securing continuing payment of any general permit fees. Initial fee payment should not be a "one-time" proposition. Fees will become more important in future years as ADEQ develops other general permits for other classes of facilities and more facilities regulated under various general permits. The regulated community should be required to renew general permit coverage every five years, submit an updated NOI, and pay a fee for renewal of the general permit. Annual fees on the anniversary date of the DAC still can be collected each year to provide a source of revenue to support the AZPDES program.

ADEQ's failure to make explicit a 5-year term in the proposed "infrequent discharger" general permit, its failure to clearly articulate requirements for renewal of the general permit, and provisions for administrative continuation of the general permit in Part II (F) raise significant concerns regarding ADEQ's intent with respect to the general permitting process and the appropriate regulation of "infrequent dischargers." It appears that ADEQ is creating a "one-time only" general permitting process designed to avoid regular and timely permit reviews of facilities regulated under the proposed general permit. As written, it will be all too easy for permittees and for ADEQ to authorize discharges under the proposed general permit and then never perform another substantive review of the general permit or the facility, even after the general permit expires. Part II (F) of the proposed general permit states that "[i]f this permit is not reissued or replaced prior to the expiration date, it is administratively continued in accordance with A.A.C. R18-9-C903(A)(2) and remains in force and effect" (emphasis added). This section that provides for automatic continuation of the permit after the expiration date renders the expiration date on the face of the general permit meaningless. Once the "infrequent discharger" general permit is issued, the discharges from the estimated 20-40 "infrequent dischargers" will be authorized under the original general permit after the expiration date until one of the following occurs: 1) the permittee submits a Notice of Intent to renew the general permit. We note that the language of the proposed general permit does not create any duty for a general permittee to submit another NOI or to submit a renewal application, 2) the permittee submits a Notice of Termination; 3) ADEQ takes affirmative action to deny coverage to a permittee regulated under the "infrequent discharger" general permit or requires a general permittee to obtain an individual AZPDES permit or a different general permit, or 4) ADEQ decides not to reissue the "infrequent discharger" general permit for all facilities in the class. How likely is it that a general permittee will take it upon themselves to submit an application for renewal, prepare a revised NOI, and pay additional fees again when such renewals are not required and general permittees are assured by Part II (F) that the original general permit will be administratively continued after the expiration date? How likely is it that ADEQ will allocate scarce agency resources to initiate permit actions to terminate general permit coverage for infrequent dischargers? It seems highly unlikely that ADEQ would initiate any permit action, particularly when the proposed general permit is silent regarding permit revocation or termination procedures.

Response 6

Under the Code of Federal Regulations at 40 CFR 122.46(a), the effective term of an AZPDES permit cannot exceed 5 years. The 5-year term of any general permit, including this permit, will be explicit from the issuance and expiration dates shown on the front signature page of the permit. As Sierra Club noted above, this permit and the authorization to discharge under this permit may be administratively continued, just as the individual permits can be administratively continued if the renewal application is submitted in a timely fashion. The term of a general permit and the term of coverage under the general permit are linked, and to separate them so that coverage would terminate and then be renewed just prior to the expiration date of the permit would be unworkable.

When the permit is reissued, Section 1 of Appendix I, Standard Conditions, requires the permittee to file an NOI within the timeframe specified in the new general permit and obtain new written authorization to discharge. The reissuance automatically terminates the continued general permit, but coverage under it would be remain in effect until the time specified in the renewed permit for submittal of NOI. This is consistent with the requirements under A.A.C. R18-9-C903, General Permit Duration, Reissuance, and Continuation. Those permittees who maintain coverage under the general permit must continue to pay the annual fees associated with the expired permit and will be required to submit a new NOI and initial fees once the permit is renewed. There will be no loss of fees due to administrative continuation of this permit or coverage under this permit.

ADEQ tracks the expiration dates and renewals of individual permits and expects to do the same with general permits and the associated DACs which will expire when the permit does. EPA tracks ADEQ's backlog of expired permits. Sierra Club is correct that the permit does not include any requirement for ADEQ to reissue the permit within a specified timeframe. The renewal of a general permit can, and often does, take a significant amount of time, just as some individual permits do.

That does not mean that there are no consequences to a long delay. Because no new dischargers can seek coverage under the expired permit, ADEQ would have to issue individual applications for any new facilities and would lose the benefits of having the general permit available.

Permittees having coverage under this permit are required to report the discharge monitoring results on Discharge Monitoring Reports just as permittees with individual permits do. They will be subject to inspections just as permittees with individual permits are. They are also subject to compliance actions if violations of any permit limits or other requirements are found. The general permit does not provide any exemptions from compliance with State and Federal rules and regulations, including Arizona Water Quality Standards. See Appendix I, Standard Conditions, Section 3, Duty to Comply.

ADEQ has added language to Appendix I, Standard Conditions, Section 1, Duty to Reapply, to clarify these requirements and has also added a condition to the permit (Part IX.B) which specifies the fee requirements.

Comment 7: Part I - Coverage Under this General Permit

Sierra Club supports changes to the language of the draft permit that removed vague, discretionary language relating to identified prohibitions to obtaining general permit coverage. The draft general permit had stated that “[p]rohibitions to obtaining a general permit may include the following...”[emphasis added]. The removal of this discretionary language (i.e., “may include”) for listed prohibitions is an improvement because it was unclear what types of discharges were or were not prohibited from obtaining “infrequent discharger” general permit coverage. Also, it was unclear what factors would inform the exercise of ADEQ’s discretion in making determinations on ineligible discharges. Sierra Club also supports the proposed prohibition against general permit coverage for infrequent discharges to Outstanding Arizona Waters.

Unfortunately, ADEQ did not adopt several Sierra Club recommendations on prohibitions or infrequent dischargers that should be ineligible for general permit coverage. ADEQ should not extend “infrequent discharger” general permit coverage to domestic wastewater treatment plants with design capacities > 1 MGD. In our view, all major WWTPs should be regulated under individual AZPDES permits.

ADEQ should prohibit general permit coverage for infrequent discharges that may reach a downstream perennial water with an A&Wc or A&Ww designated use. General permit coverage is inappropriate for point

source discharges to perennial or intermittent waters which require development of water quality-based effluent limitations on a case-by-case basis.

General permit coverage should be prohibited for “infrequent discharges” to impaired waters that are listed on the Clean Water Act §303(d) list. Such point source discharges should be regulated under individual AZPDES permits to address the specific water quality impairments of the receiving water or to incorporate wasteload allocations contained in a completed TMDL. ADEQ also should clarify that general permit coverage is prohibited for infrequent discharges to tributaries to §303(d) listed waters where it is likely that the discharge could reach a downstream impaired water.

Finally, ADEQ should put a specific provision in the general permit that prohibits general permit coverage for domestic WWTPs that do not meet ADEQ’s prescribed discharge frequency and duration requirements. For example, “infrequent discharger” general permit coverage should be prohibited for any facility that discharges more than twice per year or that discharges for more than 14 consecutive days or that violates the requirement for 30-days between authorized discharge events. Facilities that do not comply with the prescribed frequency and duration criteria should have their general permit coverage revoked and permittees should be required to apply for and obtain an individual AZPDES permit.

Response 7

See the responses to Comment #s 1-3 and 5. As noted above, a prohibition for discharges exceeding the specified duration and frequency has been added to Footnote 3 of Table 1.

Comment 8: Part II - Authorization Under This General Permit

It is not clear what happens after the expiration date of the “infrequent discharger” general permit as currently drafted. ADEQ should include provisions in Part II of the draft general permit requiring re-application for general permit coverage before the expiration date of existing “infrequent discharger” general permit (e.g., submittal of a “renewal” NOI 90 – 180 days before the expiration date). Permittees should be required to submit a “renewal” application or a “renewal” NOI in order to be covered by the proposed general permit for another 5-year permit term. “Infrequent dischargers” should be required to obtain a new Discharge Authorization Certificate (DAC) from ADEQ before the current general permit term expires. There does not appear to be any language in the draft general permit requiring re-application for general permit coverage before the expiration date of the 5-year general permit term.

In fact, the administrative continuation provisions of the draft general permit suggest that the “infrequent discharger” general permits do not need to be renewed. It appears that permittees are not required to reapply for coverage under the general permit, even after the general permit term expires. Once a permittee has submitted a Notice of Intent (NOI) to be covered under a general permit and ADEQ issues a DAC, a permittee will be able to continue operating under the “infrequent discharger” general permit and the original DAC so long as ADEQ takes no administrative action to replace or reissue the general permit [See Part II, Section F: “If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with A.A.C. R18-9-C903(A) and remain in force and effect.”]. Thus, where ADEQ takes no administrative action to revise or re-issue a general permit, it will remain in effect and “infrequent dischargers” will be able to operate indefinitely under administratively continued general permits. Sierra Club disagrees with this general permitting approach that puts the administrative burden on ADEQ to replace or re-issue general permits before they can be reviewed and updated. The approach renders the 5-year term of the general permit and the expiration dates essentially meaningless.

Response 8

See the response to Comment 6 above.

Comment 9: Part II - Provisions for ADEQ Revocation or Termination of the General Permit

There are no provisions in Part II, Authorization Under This General Permit, Sections D that address ADEQ revocation or termination of general permit coverage. ADEQ has the legal authority to revoke, modify and re-issue general permits. A.R.S. §49-255.01(C)(1) states that the rules for the AZPDES permit program "...shall provide for...issuing, authorizing, denying, modifying, suspending or revoking individual or general permits." The draft general permit should include provisions which clearly state that ADEQ can modify, suspend, revoke and re-issue the "infrequent discharger" general permit. There are many reasons that ADEQ may want to modify, suspend, or revoke and re-issue a general permit or a DAC. The infrequent discharge general permit should include provisions stating that ADEQ can revoke, modify and re-issue the general permit because of noncompliance with general permit conditions, violations of applicable water quality standards or state adoption of new or revised water quality standards. There also should be a provision stating that ADEQ may revoke general permit coverage and require that a permittee obtain an individual AZPDES permit. Part II, Section (B)(2) states that "[i]f the Director notifies an applicant that a discharge is ineligible for coverage under this general permit, the person may apply for an individual AZPDES permit (or alternative general permit, if available)," ADEQ should go further than merely providing permittees with an option to apply for individual AZPDES permit after a determination of ineligibility. ADEQ should have language that provides authority for ADEQ to revoke general permit coverage and require that the permittee apply for an individual permit within a stated time frame after notice of revocation.

Similarly, Part II, Section D includes various provisions addressing how a permittee can terminate coverage under a general permit but is completely silent on how ADEQ can terminate coverage. ADEQ should include language addressing how ADEQ can terminate general permit coverage and the grounds for revocation or termination. For example, ADEQ may want to terminate a general permit where a facility does not comply with general permit conditions limiting discharge frequency or the duration of authorized discharges.

Response 9

Provisions stating that ADEQ may modify, suspend, revoke and re-issue this permit or a DAC can be found in APPENDIX I, STANDARD AZPDES PERMIT CONDITIONS & NOTIFICATIONS, specifically in Sections 7, 17, and 18. Additional provisions regarding authorization to discharge, permit continuation, and the requirement to obtain an alternative permit can be found in Part II, Sections B.2, F.3 and 4, and G.1, respectively.

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

Comment 10: Part III - NOI Requirements

Under Part III, Section B, persons seeking authorization to discharge under the "infrequent discharger" general permit must submit a complete and accurate Notice of Intent (NOI). The information that ADEQ asks for in the NOI is incomplete because it does not require submittal of information that Sierra Club thinks is critical to ADEQ's determination of eligibility for the "infrequent discharger" permit. Notably, the NOI requires only that the permittee provide a complete description of "the approximate frequency and duration of the discharge(s)." Since the "infrequent discharger" general permit specifically limits a facility to two discharge events during a 12-month period, the NOI should require specific information about how a permittee will comply with the twice-a-year discharge limitation. It is not enough to ask for the approximate frequency and duration of discharge without supporting information that ADEQ can use to evaluate infrequent dischargers capacity to comply with the stated discharge frequency and duration requirements. If an "infrequent discharger" is designed to be a zero discharge facility, then the permittee should provide sufficient information to ADEQ on the design of the zero-discharge facility and the operational or best management practices that the permittee intends to use to achieve zero discharge or to comply with the limitations on discharge (i.e., expected flows, options for direct reuse, groundwater recharge, effluent storage capacity, capacity of evaporation ponds, seasonal variations, reuse demands, etc.). At a minimum, the permittee must submit enough information in the NOI demonstrating that the facility can limit its discharge to twice per year for no more than 14 consecutive days and that, at other times, the facility will not discharge to any receiving water.

Response 10

See the response to Comment 3.

Comment 11: Part IV. Effluent Limitations and Monitoring Requirements

Sierra Club is concerned about the limited number of effluent limitations for pollutants in the proposed “infrequent discharger” general permit. The only effluent limitations in the general permit are for 5-day biochemical oxygen demand (BOD5), total suspended solids, *E. coli* bacteria, total residual chlorine and pH. There are no effluent limitations for ammonia, heavy metals, whole effluent toxicity or other pollutants. This is particularly problematic because the “infrequent discharger” general permit may regulate major facilities discharging up to 20 mgd and may have significant industrial uses contributing wastewater to the local wastewater collection system or they may have a local pretreatment program in place. While Part IV.A of the permit states on p. 10 that “additional limits may be specified in the DAC,” there does not appear to be any provision in the general permit that addresses how ADEQ will go about specifying additional effluent limitations in a DAC. The process for establishing additional effluent limitations in a DAC should be clarified in the final general permit.

Second, Sierra Club does not understand why ADEQ proposes to distinguish monitoring requirements for effluent limitations based on design flows. ADEQ appears to have arbitrarily distinguished monitoring requirements at 5 mgd. Sierra Club recommends that the monitoring requirements be the same for all infrequent dischargers, regardless of size. As it is, ADEQ is asking infrequent dischargers to do very little monitoring for compliance with effluent limitations under the draft general permit. What is the rationale for reducing monitoring frequency even further for facilities with design flows of less than 5 MGD? The proposed monitoring frequencies are so limited that ADEQ will not be able to determine compliance with the few effluent limitations proposed in Table 1.

Response 11

The effluent limitations and monitoring requirements in this permit, including the monitoring frequencies, are generally consistent with those in individual permits for WWTPs. As discussed in the Response to Comment #1, BOD5, total suspended solids, and pH are technology-based effluent limitations, and all WWTPs are required to monitor for these parameters. The technology-based limitations are specified in this general permit in Part IV.A, Table 1. In addition, all WWTPs are required to monitor for *E. coli* and for total residual chlorine when chlorine is used for disinfection because they always have a reasonable potential to exceed a water quality standard (RP) for these parameters. For all other parameters, water quality-based effluent limitations will be established on a case-by-case basis as described in Part IV.B: “For existing facilities, if existing data for any parameter in Table 2.a through 2.e show a reasonable potential (RP) for an exceedence of the applicable water quality standards, a limit for that parameter will be established and the limit will be added to the DAC.” The process for determining RP is explained in Part IV of the Fact Sheet. The process is based on EPA Guidance and meets the requirements in 40 CFR 122.44. This is the same process used to set limits in individual permits.

ADEQ has always based the monitoring frequencies for WWTP permits on the facility design capacity. The lower the design flow, the less frequent the monitoring. This is completely reasonable for two reasons: 1) WWTPs with design flows < 0.5 mgd are typically small package treatment plants which serve communities with few commercial sources and no industrial sources and therefore are less likely to have significant variability in effluent quality, and 2) if the effluent quality is the same, lower discharge volumes are expected to have lesser environmental impacts.

The monitoring requirements are not arbitrary. Some of the monitoring requirements are based on 40 CFR 122.21(j), which specifies different requirements for facilities with design flows > 0.1 mgd and > 1 mgd. The pretreatment requirements are specified in 40 CFR 403 and apply to POTWs with design flows of 5 mgd or more from all of their collective plants.

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

Comment 12: Table 1 - BOD5 and TSS monitoring provisions

The effluent limitations and monitoring requirements for 5-day biochemical oxygen demand (BOD5 and total suspended solids (TSS) in Table 1 on p. 10 are confusing. Table 1 includes concentration limits for BOD5 and TSS that are expressed as monthly and weekly averages. However, the monitoring requirements for both BOD5 and TSS require only that an "infrequent discharger" monitor BOD5 and TSS once during a two-week discharge event where the WWTP is < 5 mgd. How will it be possible for ADEQ to determine compliance with concentration limits expressed as monthly and weekly averages when permittees are required to monitor only once during a 14-day discharge event? How will ADEQ calculate an average from a single sample result? ADEQ should explain in the fact sheet for the final general permit how ADEQ will determine compliance with concentration limits for BOD5 and TSS expressed as monthly or weekly averages with water quality data obtained at the proposed monitoring frequencies. In the alternative, ADEQ could require weekly monitoring during a 2-week discharge event to generate enough data to determine compliance with the stated effluent limitations.

Also, ADEQ prescribes a minimum 85% removal requirement for BOD5 and TSS. Again, the 85% removal minimum discharge limit is expressed as a monthly average. ADEQ cannot determine compliance with a discharge limit expressed as a monthly average from the results of a single composite sample collected once during a two-week discharge period. It would seem that ADEQ will have to either increase monitoring frequencies for BOD5 and TSS to a minimum of twice per discharge period to determine compliance with limits expressed as averages or change the percent reduction effluent limit from a monthly average to a single sample minimum. Given this choice, Sierra Club recommends that ADEQ revise the BOD5 and TSS monitoring requirements to require more frequent monitoring. For example, a minimum of weekly monitoring during the allowed 2-week discharge period would allow for the calculation of an average from 2 weekly sample results.

Response 12

See the response to Comment 11 above. The monitoring frequency requirements in this permit are generally consistent with those in individual permits for WWTPs. The technology-based limitations are specified in the regulations. For water quality-based limitations, the monthly average and daily maximum limits are calculated using a statistical method that accounts for acute and chronic effects and includes a coefficient of variation dependent on the number of samples. If only one sample per month is collected, the sample result must meet the monthly average limit. In addition, the frequencies specified in the permit are the minimum requirement – the permittee may choose to conduct more frequent sampling in order to (possibly) reduce the monthly average, and if so, is required by the permit to report all the sample results.

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

Comment 13: Part IV - Table 2(a) and 2(b) sample types

ADEQ proposes to distinguish monitoring requirements by design flow and sample types for facilities with design flows of less than 1 MGD and those with design flows greater than 1 MGD. WWTPs with design flows of less than 1 MGD are required to collect 8-hour composite samples and WWTPs with design flows greater than 1 MGD must collect 24-hour composite samples. Is there a technical or legal basis for distinguishing between 8-hour and 24-hour composite samples? ADEQ should simplify the monitoring requirements in Table 2(a) and 2(b) by requiring that all WWTPs collect 8-hour composite samples, especially in light of the low frequency of discharge.

Response 13

As noted previously, the monitoring requirements in this permit are generally consistent with those in individual permits for WWTPs. Small WWTPs usually have only one operator who is not on site all day and no automatic composite samplers. As also noted previously, the effluent quality of small community WWTPs is not expected to vary significantly. Therefore, requiring minor WWTPs to collect 24-hour composite samples is unreasonable and unnecessary. ADEQ requires major WWTPs to collect 24-hour composite samples consistent with 40 CFR 122.21(j)(4)(viii).

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

Comment 14: Part IV - Tables 2(c) through 2(e) and Table 4 monitoring requirements

ADEQ proposes to prescribe different discharge monitoring and effluent characterization testing frequencies based on design flow. Domestic wastewater treatment plants with design flows of less than 500,000 gpd are not required to perform any discharge monitoring or effluent characterization testing for volatile organic chemicals (VOCs)(Table 2.c), acid-extractable compounds (Table 2.d), or base-neutral compounds (Table 2.e) under the proposed general permit. WWTPs with design flows between 500,000 gpd and 1 mgd are required to conduct discharge monitoring for VOCs, acid-extractable compounds and base-neutral compounds twice during the permit term and effluent characterization testing for the same parameters once during the permit term. WWTPs with design flows greater than or equal to 1 mgd and less than 5 mgd are required to conduct discharge monitoring for VOCs, acid-extractable compounds and base-neutral compounds once per year and effluent characterization testing for the same parameters three times over each general permit term. WWTPs with design flows greater than 5 mgd and less than 20 mgd are required to conduct discharge monitoring for VOCs, acid-extractable compounds and base neutral compounds once per discharge and effluent characterization testing for the same parameters once each year. These varying discharge monitoring and effluent characterization testing frequencies are confusing, hard to harmonize, and they appear to be arbitrarily selected. ADEQ could simplify these monitoring requirements by prescribing one set of effluent characterization testing requirements for all infrequent dischargers to be completed in the first general permit term with provisions for reducing or eliminating effluent characterization testing after minimum EC dataset requirements are met.

“Infrequent dischargers” with design flows of up to half a million gallons per day will never be required to conduct discharge monitoring or effluent characterization monitoring for VOCs, acid-extractable compounds or base-neutral compounds under the proposed general permit. Sierra Club questions ADEQ’s legal authority for exempting certain infrequent dischargers from effluent characterization testing requirements? All infrequent dischargers should be required to conduct a minimum level of effluent characterization testing to assess whether pollutants of concern are in the discharge. There does not appear to be a rational basis for exempting WWTPs with design flows of less than 500,000 gpd. ADEQ should require that all infrequent dischargers conduct some effluent characterization testing of their discharges in the first general permit term. ADEQ should not distinguish the frequency of effluent characterization testing by design flow of the WWTP. Rather, the frequency of effluent characterization testing should be determined by the minimum amount of effluent data that ADEQ needs to make reasonable potential determinations. Sierra Club notes that monitoring requirements under the proposed “infrequent discharger” general permit are already minimal. It is not unreasonable to ask all infrequent dischargers to conduct some minimum level of effluent characterization testing during the first general permit term to generate enough effluent data to make reasonable potential determinations.

ADEQ again proposes to distinguish effluent characterization monitoring requirements by design flow. ADEQ proposes to require different sample types for facilities with design flows of less than 1 MGD and those that have design flows greater than 1 MGD. WWTPs with design flows of less than 1 MGD are required to collect 8-hour composite samples and WWTPs with design flows greater than 1 MGD must collect 24-hour composite samples. Again, Sierra Club does not understand the technical basis for making this distinction. ADEQ should simplify the monitoring requirements in Tables 2(a) through 2(e) by requiring that all infrequent dischargers collect either 8-hour or 24-hour composite samples. Sierra Club sees no reason for distinguishing sample type requirements based on design flow given the expected infrequency of discharges? Are 24-hour composite samples really necessary?

Finally, Sierra Club notes that the discharge monitoring requirements in Tables 2 (c) through 2 (e) and Table 4 illustrate the difficulty of trying to develop appropriate monitoring conditions using a general permit approach. The confusing results are either blanket application of general permit conditions that, in some cases, are not stringent enough (for example, the complete exemption from discharge monitoring and EC testing requirements for WWTPs with design flows < 500,000 gpd) or that result in arbitrary, confusing and inconsistent discharge monitoring and effluent characterization testing frequencies for different categories of “infrequent dischargers.” These difficulties could be avoided entirely by implementing an individual AZPDES permit approach.

Response 14

See responses to Comments 11, 12, and 13 above. The monitoring requirements in this permit are generally consistent with those in individual permits and are based on the requirements of 40 CFR 122.21(j)(4), which specifies sampling parameters by design flow. Having different requirements for different sizes or even types of facilities under one general permit is not uncommon - note the monitoring requirements in the De Minimus General Permit and the Multi-Sector General Permit.

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

Comment 15: Part IV.D - Table 4 Effluent Characterization Testing

The relationship between the additional monitoring requirements prescribed in Tables 2(a) through 2(e), Table 3 and Part IV, Section D and Table 4 on Effluent Characterization Testing are confusing. The additional monitoring requirements and the effluent characterization testing frequencies are inconsistent. The text of Part IV, Section D requires that permittees conduct effluent characterization testing “whether discharging or not.” However the text of Part IV, Section D is unclear with respect to what the required monitoring frequencies are. As we understand Part IV, Section D, a permittee must monitor at the frequencies specified in Tables 2(a) through 2(e) when discharging and at the effluent characterization testing frequencies specified in Table 4 when not discharging.

It may help to label Tables 2(a) through 2(e) as “Discharge Monitoring Requirements” rather than “Additional Monitoring Requirements” and provide additional text clarifying that the discharge monitoring requirements apply only during authorized discharge events. Sierra Club suggests that ADEQ re-write Part IV of the general permit to clarify and distinguish discharge monitoring requirements prescribed in Tables 1, 2(a) through 2(e), and Table 3 from effluent characterization testing requirements in Part IV, Section D and Table 4. As currently formatted, it is very difficult to read the proposed monitoring requirements together and harmonize them. For example, Table 2(a) prescribes “additional” monitoring requirements for general chemistry and microbiology. The prescribed monitoring frequency for water quality parameters listed in Table 2(a) is once per discharge event. However, Table 4 prescribes effluent characterization testing requirements for the same general chemistry and microbiology parameters and requires more frequent effluent characterization testing ...i.e., once per quarter regardless of whether the facility is discharging or not. Given these two sets of monitoring requirements, what is the required monitoring frequency for an “infrequent discharger?” Will an infrequent discharger be required to monitor for general chemistry and microbiological parameters once per quarter, once per discharge event, or both?

Tables 2(c) through 2(3) prescribe additional monitoring requirements for VOCs, acid-extractable compounds and base-neutral compounds. Monitoring requirements are distinguished by the design flow of WWTPs. No monitoring is required of WWTPs with design flows less than 500,000 gpd; a proposed exemption with which Sierra Club strongly disagrees. WWTPs with design flows between 500,000 gpd and 1 MGD must conduct additional monitoring for volatile organic compounds, selected acid-extractable compounds and selected base-neutral compounds twice during the 5-year term of the general permit. WWTPs with design flows greater than 1 MGD and less than 5 mgd must conduct additional monitoring for those water quality parameters once per year. Finally, WWTPs with design flows greater than 5 mgd and less than 20 mgd must conduct additional monitoring for the water quality parameter suite once per discharge event.

In contrast, Table 4 prescribes different minimum effluent characterization testing frequencies for WWTPs with design flows greater than 500,000 gpd for the parameters listed in Tables 2(c), 2(d) and 2(e). Table 4 states that WWTPs with design flows between 500,000 gpd and 1 MGD must conduct effluent characterization testing for VOCs, acid extractable compounds and base-neutral compounds once during the 5-year permit term [not twice per permit term as stated in Tables 2(c) through 2(e)]. Table 4 states that WWTPs with design flows between 1 mgd and less than 5 mgd must conduct effluent characterization testing for VOCs, acid-extractable compounds and base-neutral compounds “3x /permit term.” This EC testing requirement is inconsistent with the additional monitoring frequencies prescribed in Tables 2(c), 2(d) and 2(e) for WWTPs with design flows greater than or equal to 1 MGD and < 5 mgd. Those tables require additional monitoring “1x/year.” Table 4 prescribes effluent characterization testing requirements for VOCs, acid-extractable compounds, and base-neutral compounds for WWTPs with design flows between greater than or equal to 5 MGD and less than 20 MGD [i.e., “1x / year”]. Tables 2(c), 2(d) and 2(e) prescribe more frequent additional monitoring requirements for the same water quality parameters for WWTPs with design

flows greater than 5 MGD (“1x / discharge”). The frequencies for effluent characterization testing prescribed in Table 4 for WWTPs are generally inconsistent with additional monitoring requirements prescribed in Tables 2(c), 2(d) and 2(e) for all WWTPs with design flows greater than 500,000 gpd. ADEQ should revise and integrate the various effluent characterization testing and additional monitoring frequencies prescribed in Tables 2(c) 2(d), 2(e) and Table 4 so they are consistent with each other.

Response 15

ADEQ understands that the distinctions between monitoring required when a facility is discharging and monitoring required for effluent characterization can be confusing. Nevertheless, this language is standard in all AZPDES individual permits, and most permittees are familiar with it. When the permittee discharges, the monitoring frequencies in Tables 1, 2.a-e, and 3 apply. If the permittee never discharges, the permittee must still monitor at the minimum frequencies specified in Table 4. All monitoring conducted when discharging fulfills the requirements for effluent characterization monitoring. If a permittee discharges twice a year, no additional monitoring is required for the parameters in Tables 2.b-e and 3; the permittee will be required to do additional quarterly monitoring for the parameters in Tables 1 and 2.a, but only in those quarters when no discharges occur.

As noted in the response to Comment 14, the monitoring requirements in this permit are generally consistent with those in individual permits and are based on the requirements of 40 CFR 122.21(j)(4), which specifies sampling parameters by design flow.

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

Comment 16: Whole Effluent Toxicity Testing

ADEQ is proposing “monitoring only” requirements for whole effluent toxicity (WET) testing with action levels that, if exceeded, trigger follow-up WET testing and TIE/ TRE procedures. Why are there no effluent limits for WET to ensure compliance with narrative water quality standards? Are there any conditions under which an effluent limitation for WET would be included in Table 1?

WET testing requirements in the draft general permit seem arbitrary. Again, ADEQ proposes to distinguish WET testing frequencies for WWTPs with different design flows. Facilities with design flows of less than 100,000 gpd must perform WET testing once per permit term. WWTPs with design flows greater than or equal to 100,000 gpd and less than 500,000 gpd must conduct WET testing twice per permit term. WWTPs with design flows between 500,000 and 1 mgd must conduct WET testing 4 times during the permit term. WWTPs with design flows between 1 mgd and 5 mgd must conduct WET testing annually. WWTPs with design flows greater than 5 mgd must conduct WET testing once per discharge event. The fact sheet does not include any explanation for the selection of these WET testing frequencies. What is the basis for the proposed WET testing frequencies?

Sierra Club believes that there may be an opportunity to simplify WET testing requirements in the “infrequent discharger” general permit. ADEQ agrees with the proposal to reduce WET testing frequency for small WWTPs. [i.e. once per permit term for small WWTPs with infrequent discharges of less than 100,000 gpd]. ADEQ should require WET testing 1x / annually for larger WWTPs with dischargers > 100,000 gpd. It is not unreasonable for ADEQ to require that infrequent dischargers conduct WET testing of one of the two discharge events allowed each year.

Sierra Club again notes that ADEQ proposes to require chronic WET testing for infrequent discharges that are limited to twice / year of no more than 14 days in the draft general permit. Does it make sense to require chronic WET testing given the proposed limits on the frequency and duration of the discharge?

Response 16

See the responses to Comments 11, 12, and 13 above. The monitoring requirements in this permit for WET are consistent with those in individual permits for WWTPs. As with all other parameters, WET limits are only included if the facility's monitoring data show RP for WET, and the monitoring frequency is based on the facility's design flow.

ADEQ always requires chronic WET testing when discharges occur for seven or more consecutive days, and discharges of up to 14 days are authorized under this permit. If the discharge occurs for less than seven consecutive days, only acute testing is required.

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

Comment 17: Part VI.B - Reporting of Monitoring Results

The draft general permit states on p. 23 that “[t]he permittee shall report all monitoring results on Discharge Monitoring Report (DMR) forms supplied by ADEQ, to the extent that the results may be entered on the forms.” This reporting requirement is confusing for several reasons. The provision stating that permittees are required to report on DMRs “to the extent that the results may be entered on the forms” seems ill-advised. If ADEQ reporting forms are so poorly constructed that permittees cannot enter required results and needed information, then ADEQ should revise its forms. ADEQ should not be using DMRs and other reporting forms that can’t be filled out by permittees. Permittees should not have any discretion on what monitoring results should be entered into a standard ADEQ reporting form. ADEQ should strike the language which states: “to the extent that the results may be entered on the forms.”

Response 17

This is standard permit language and refers primarily to ammonia which cannot be reported on the DMRs because the standards are based on the temperature and pH of the effluent at the time of sampling. ADEQ requires reporting on the ammonia data log instead, which is also included in this permit. The DMRs are developed by ADEQ and include all the monitoring parameters and applicable limits.

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

Comment 18: Part VIII - Whole Effluent Toxicity Testing Requirements

It would make sense to consolidate Part VIII and Part IV, Section C, because both sections deal with WET testing. Sierra Club recommends that Part VIII be incorporated into the WET Monitoring requirements found on p. 21 of the “infrequent discharger” general permit.

Response 18

ADEQ agrees it would be reasonable to consolidate the two sections, but due to the length and complexity of Part IV, Section C, ADEQ believes that separating the monitoring tables to such an extent would provide more confusion than benefit

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

Comment 19: Standard AZPDES Permit Conditions

ADEQ failed to include the standard AZPDES permit conditions and notifications that are a part of the general permit in the published version of the “infrequent discharger” general permit so the public had no opportunity to comment on them. For example, Sierra Club was unable to find any general provisions in the infrequent discharger general permit addressing permit revocation or compliance and enforcement. Are revocation and enforcement provisions included as standard AZPDES permit conditions?

Response 19

The Standard Conditions are included in Appendix I and were included in the public notice draft. Revocation and enforcement provisions are included in Sections 7, 18, 26.

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

Comment 20: Revocation and Re-Issuance of the General Permit and DACs

It is unclear what happens if ADEQ finds there is reasonable potential for a pollutant in an infrequent discharge to exceed a water quality standard or discharge monitoring shows that an infrequent discharger violates applicable water quality standards. Part IV. Effluent Limitations and Monitoring Requirements, Section A states that “additional limits may be specified in the DAC based on the result of a finding of reasonable potential.” However, it is not clear what administrative procedures ADEQ will use to re-open an infrequent discharger general permit or to issue a revised DAC. Sierra Club recommends that this important issue be specifically addressed in the text of the final general permit. ADEQ should include language in the general permit that states that ADEQ can revoke and re-issue a general permit or a DAC if a person violates the conditions of the general permit. ADEQ should include either general permit “reopener” language or general permit revocation and reissuance language in Part IV of the general permit or in the standard conditions. ADEQ should include boilerplate language in the general permit that authorizes all of the following: 1) ADEQ revocation and re-issuance of the general permit, 2) ADEQ revocation and re-issuance or modification of a DAC to include new effluent limitations or additional monitoring requirements, and 3) language authorizing ADEQ revocation or termination of general permit coverage which clarifies that ADEQ has the authority to require that a general permittee apply for and obtain an individual AZPDES permit.

A.R.S. §49-245(B) provides model language that ADEQ can use. A.R.S. §49-245(B) gives ADEQ the legal authority to revoke a general APP if a person violates the conditions of a general permit and require that the person obtain an individual APP. The same authority should be explicitly stated in all general AZPDES permits issued by ADEQ. A.R.S. §49-245(B) states that ADEQ may revoke, modify or suspend a general APP at any time if ADEQ determines it is necessary to comply with Arizona’s Water Quality Control statutes. ADEQ should include similar language in the proposed general permit that makes clear that ADEQ has this legal authority for the AZPDES permit program.

Response 20

See Response to Comment 19.

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

Comment 21

Thank you for the opportunity to comment on the proposed general permit for “infrequent dischargers.” In conclusion, we want to reiterate our strong opposition to the “infrequent discharger” general permit because the relatively small number of domestic wastewater treatment plants that may be eligible for general permit coverage, and the absence of an adequate cost / benefit justification to support ADEQ issuance of the proposed general permit. In general, Sierra Club does not think that the “infrequent discharger” general permit complies with legislative guidelines prescribed in the AZPDES permit rules or in A.R.S. §49-245 for issuing general permits. For all of these reasons, we urge you to withdraw the “infrequent discharger” general permit.

Response 21

ADEQ appreciates Sierra Club’s comments and concerns but respectfully disagrees. The following is a summary of ADEQ’s responses to the key issues raised in the comments:

- This general permit covers facilities within the same geographical area (the state of Arizona) and discharges to waters of the U.S. with the same variety of designated uses as most, if not all, of the other AZPDES general permits previously issued by ADEQ.
- The facility class has been adequately defined as domestic wastewater treatment plants with at least secondary treatment and design flows of less than 20 mgd which discharge with a very limited duration and frequency as defined in, and restricted by, the general permit, and therefore the sources all involve substantially similar operations.
- All covered discharges will have the same technology-based effluent limitations (TBELs), which reflect the facility operating conditions, as well as water quality-based effluent limitations (WQBELs)

for *E. coli* and total residual chlorine, and similar monitoring requirements. Only the monitoring frequencies and the effluent characterization requirements for organic pollutants will vary based on design flow, which meets the monitoring requirements in 40 CFR 122.21(j)(4) for publically-owned treatment works. Additional WQBELs will be established on a case-by-case basis using the same procedures and criteria as is used for individual permits.

- The discharges are more appropriately controlled under a general permit than under an individual permit due to the very low frequency and short duration of discharges, if any, and the minimal likelihood of any environmental impact.
- As many as thirty of the currently permitted dischargers may be eligible for coverage under this general permit. That is not a small number. In addition, as effluent reuse and recharge opportunities grow, that number will certainly increase.
- The permit conditions and monitoring and reporting requirements in this general permit will be essentially the same as in an individual permit. The cost savings for ADEQ and the regulated community will be due solely to the reduced paper work, administrative activities, reduced staffing needs, and flat fees. This general permit will be no less protective of human health and the environment than individual AZPDES permits. No costs are expected, and the benefits are clear. Therefore, no further cost / benefit analysis is necessary.

ADEQ believes that this general permit complies with legislative guidelines and will provide significant benefit to the agency and to a sufficient number of permittees with no cost to human health or the environment.

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

Salt River Project Comment

Comment 1: Whole Effluent Toxicity (WET) Testing

The proposed general permit does not specifically identify, by designated uses, the types of receiving waters that are subject to WET monitoring. WET monitoring should only be required if discharging treated effluent to receiving waters that have designated uses of Aquatic and Wildlife warm water fishery (A&Ww), Aquatic and Wildlife cold water fishery (A&Wc), or Aquatic and Wildlife effluent dominated water (A&Wedw).

Response 1

ADEQ agrees. The language in italics has been added to the following sentence in Part IV.C: “The permittee shall monitor discharges for Whole Effluent Toxicity (WET) as specified in Table 3 which follows *unless otherwise noted on the DAC (WET testing is not required for discharges to waters with no Aquatic and Wildlife designated uses).*”