

RESPONSE TO PUBLIC COMMENTS

Arizona Pollutant Discharge Elimination System Multi-Sector General Permits for Stormwater Discharges Associated with Industrial Activities to Waters of the United States

Permit Numbers: AZG2019-001 – Industrial Stormwater Permit
AZG2019-002 – Mining Stormwater Permit

Permit Action: Final Permit decision and response to comments received on the draft Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activities to Waters of the U.S. public noticed on November 29, 2018

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Date: May 15, 2019

ADMINISTRATIVE RECORD

The Arizona Department of Environmental Quality (ADEQ) is reissuing the Arizona Pollutant Discharge Elimination System (AZPDES) permit for stormwater discharges associated with industrial activities to Waters of the U.S.

This general permit is reissued by ADEQ pursuant to Arizona Administrative Code (A.A.C.), Title 18, Article 9, Parts A and C.

Prior to reissuing this AZPDES permit, existing industrial MSGP operators were discharging under ADEQ's 2010 permit. The former permit expired in January 2016 and was administratively continued pursuant to A.A.C. R18-9-C903(B).

As part of the process for re-issuing Arizona's MSGP, ADEQ implemented a stakeholder process that included a series of meetings to discuss modification to the proposed permit, opportunity for informal comment, as well as a public hearing. The stakeholder process included the following activities:

2018 Informal Stakeholder Meetings:

- August 22, 2018
- September 27, 2018
- October 15, 2018
- November 1, 2018
- November 16, 2018
- December 28, 2018

2019 Stakeholder Meetings:

- January 18, 2019
- January 25, 2019
- April 5, 2019
- April 26, 2019

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Formal Public Hearing

- January 7, 2019

Stakeholder Formal Review and Comment Period

- November 29, 2018 through January 7, 2019.
- On Jan 2, 2019 the comment period was extended to January 25, 2019.

First Public Notice in Arizona Administrative Register

- November 29, 2018 (A.A.R. Volume 24 / Issue 48)

RESPONSE TO COMMENTS

Pursuant to A.A.C. R18-9-A908(E)(1), the following is ADEQ's response to significant comments received in response to the November 29, 2018 Public Notice of the draft permits. The "comment" column includes a narrative of the comment received, and the person(s) who submitted the comment.

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Comment	Response
General Comments	
<p>Comment G1</p> <p><u>Wait to Reissue ADEQ's MSGP</u></p> <p>Some commenters suggested waiting until the results of the industrial stormwater study conducted by the National Academy of Science (NAS) are released.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Salt River Project 	<p>Historical Context – When U.S. EPA reissued its 2015 MSGP, it was challenged in court by various Non-Governmental Organizations. The complaint largely consisted of the following:</p> <ul style="list-style-type: none"> • Lack of numeric limits • Pollutant monitoring is not consistent with industrial activities and corresponding pollutants • Lack of meaningful government oversight <p>As part of a settlement agreement between U.S. EPA and the Non-Governmental Organizations, U.S. EPA agreed to fund a study to identify areas to improve the industrial stormwater permit. U.S. EPA commissioned the National Academy of Sciences to conduct the study. The prepublication of the report was released in February, 2019 (after the close of public comment period for ADEQ's draft permits).</p> <p>In general, the recommendations of the report include:</p> <ul style="list-style-type: none"> • Monitoring industry-wide for pH, TSS, and COD • Suspend or remove iron and magnesium until acute criteria are developed • Allow composite samples for benchmark (routine) monitoring • Require continued monitoring throughout the permit term, and • Implement a tiered approach to monitoring <p>Many of the findings of the NAS study are known areas of needed improvement to the industrial stormwater permitting program nationwide.</p> <p>As such, ADEQ's draft permit considers many of the recommendations, despite the report being released after the development and public notice of the draft permit.</p> <p>ADEQ anticipates EPA's 2020, MSGP will incorporate many of the findings of the NAS study as the industrial stormwater program continues to evolve.</p>

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<p>Comment G2</p> <p><u>Stakeholder Process Not Long or Broad Enough</u></p> <p>Some commenters suggested the stakeholder process to reissue the permit was not long or inclusive enough, and that there was no rationale for the proposed changes.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Public Service • Arizona Rock Products Association 	<p>As part of ADEQ’s 2018-2019, workplan requirements to implement the National Pollutant Discharge Elimination System (NPDES) program in Arizona, U.S. EPA required ADEQ to reissue the industrial stormwater permit before January 31, 2019.</p> <p>In July, 2018, ADEQ initiated the permit reissuance process by preparing a draft permit and engaging various stakeholders (permittees, industry groups, municipalities, etc.) who generally represent a diverse cross-section of permittees.</p> <p>Throughout the permit drafting process, ADEQ updated a cross-walk of proposed changes from the 2010 permits. The cross-walks were also posted on the ADEQ website during the public notice process to inform stakeholders of the proposed changes as well as the rationale for the proposed changes.</p> <p>In response to comments and requests from various stakeholders, ADEQ negotiated an extension with U.S. EPA of the January 31, 2019, issuance date.</p> <p>A summary of the stakeholder meeting dates and process is provided above in the Administrative Record.</p>
<p>Comment G3</p> <p><u>Exceedance of Statutory Authority</u></p> <p>Some commenters expressed concern that proposed changes to ADEQ’s industrial stormwater permits exceeded the department’s statutory authority because it was “more stringent than” EPA’s 2015 MSGP.</p> <p>One example various commenters point to was the requirement in the draft permit to conduct “accelerated monitoring” in response to an “action level exceedance.”</p>	<p>ADEQ’s 2019 MSGP, is being reissued in the same manner as all AZPDES general permits and consistent with ADEQ policies, procedures, rules, and statutes.</p> <p>Pursuant to Arizona Revised Statute, Title 49, Chapter 2, Article 3.1:</p> <p><i>The director shall adopt rules to establish an AZPDES program consistent with the requirements of section 402(b) and 402(p) of the clean water act....The director shall not adopt any requirement that is more stringent than or conflicts with any requirement of the Clean Water Act.</i></p> <p>Section 402(b) of the Clean Water Act establishes the requirements for U.S. EPA to approve a state permitting program. Section 402(b)(1), State Permit Programs, requires</p>

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<p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Public Service • Arizona Rock Products • Salt River Materials Group • City of Phoenix • Sal River Project 	<p>approved states to issue permits "...which apply and ensure compliance with all applicable requirements of sections 1311 (Effluent Limitations), 1312 (Water Quality Related Effluent Limitations), 1316 (National Standards of Performance)...."</p> <p>Section 402(p) provides that (1) "...the state...shall not require a permit under this section for discharges composed entirely of stormwater." Except for (2)(B) "A discharge associated with industrial activity."</p> <p>ADEQ's permit is consistent with, and specifically required by, the Clean Water Act.</p> <p>It is important to note that 33 U.S. Code §1318(a)(A) specifies "...the administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods, (iv) sample such effluents [i.e., sample / monitor], and (v) provide such other information as he may reasonably require...."</p> <p>Consistent with the Clean Water Act and U.S. Congress' intent, U.S. EPA adopted rules to implement the National Pollutant Discharge Elimination System (NPDES) program. These rules are generally found in 40 Code of Federal Regulation, Part 122.</p> <p>Due to the variety of regulated discharge activities under the NPDES program, U.S. EPA saw fit not to specify monitoring requirements (type, frequency, etc.) in rule, but to specify in rule that monitoring requirements must be specified in the permit, and is consistent with the requirement to sample effluent, as set forth in the Clean Water Act under 33 U.S. Code §1318(A)(a), referenced above.</p> <p>As such, 40 CFR 122.48 requires <i>All permits shall specify: (b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity, including, when appropriate, continuous monitoring.</i></p> <p>While ADEQ's draft permit did not mirror U.S.</p>

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	<p>EPA's Industrial Stormwater Permit, it is consistent with state and federal law.</p> <p>See Comment 6G for a specific response on monitoring requirements.</p>
<p>Comment G4</p> <p><u>Typographical Errors and Inaccurate Cross-References:</u></p> <p>Some commenters pointed out various typographical errors and inaccurate cross-references in the permits and fact sheets.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • APS • City of Phoenix 	<p>ADEQ corrected typographical errors and inaccurate cross-references in the final permits and fact sheets.</p>
<p>Comment G5</p> <p><u>myDEQ NOI Submission and Fee Portal:</u></p> <p>A concern about the functionality of myDEQ and how a NOI can be submitted without the corresponding fee being submitted.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Public Service 	<p>The stormwater portal in myDEQ requires that the corresponding initial AZPDES fee be submitted before the NOI is issued. The following process is used in myDEQ for stormwater NOIs:</p> <ul style="list-style-type: none"> • Complete screens by filling in the required information in the NOI • Review, confirm, and revise NOI (if necessary) summary screen • Certify NOI • Pay for NOI (note, this takes the user to the Arizona Department of Administration portal for payment) • Return to myDEQ to retrieve NOI certificate <p>The NOI is only issued after payment is made.</p> <p>Pursuant to A.A.C. Title 18, Chapter 14, Article 1, ADEQ is required to assess initial fees (when a new Notice of Intent is submitted), and an annual fee (based on the initial NOI date) until permit coverage is terminated.</p> <p>ADEQ <i>does not</i> assess a fee for revising an NOI that is subject to active permit coverage. Note, If the facility location or owner changes, a new (initial NOI) must be submitted.</p>

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<p>Comment G6</p> <p><u>Reporting to U.S. EPA:</u></p> <p>Are sampling results above an action level reportable to EPA / compliance issue?</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperative • Nucor Steel 	<p>As with all NPDES / AZPDES permits, monitoring data is required to flow to U.S. EPA. ADEQ flows this information from the e-DMR that is submitted through myDEQ.</p> <p>In the same manner that an exceedance of a benchmark in the 2010 MSGP did not trigger a violation, an exceedance of an “action level” is not a violation.</p>
<p>Comment G7</p> <p>The terms "Waters of the U.S., receiving waters, surface water," etc. appear to be used interchangeably. ADEQ should choose to use one term consistently (preferably Waters of the U.S. or Receiving Water) and use and define consistently.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Appendix A includes a definition of receiving water. “Receiving water” means “waters of the U.S.”</p> <p>The terms “receiving water” and “surface water” are used to mean “waters of the U.S.” in both state and federal rules (see also 40 CFR 122).</p> <p>The terms “Waters of the U.S.” and “receiving water” are used interchangeably in the permit depending on the context to enhance the readability of the permit while retaining the intent.</p>
<p>Comment G8</p> <p><u>No Discharge Certificate:</u></p> <p>Define the criteria and information for the No Discharge Certification</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • EPA • City of Phoenix • Anterré Beebe, CSP, CHMP 	<p>The “No Discharge Certification” is not a requirement of the Clean Water Act and is not a requirement of 2019 MSGP. The NDC is intended to be an optional feature to assist customers who will not discharge to a Waters of the U.S.</p> <p>The Fact Sheet contains information on how the No Discharge Certification (NDC) can be obtained using ADEQ’s on-line permitting portal, myDEQ. The criteria that will be used will be a series of questions related to stormwater controls and the management of the stormwater at the site.</p> <p>ADEQ will hold Stakeholder meetings to gather recommendations on the No Discharge Certificate. The No Discharge Certificate option is expected to be available in the myDEQ on-line permitting portal by the end of 2019.</p>

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<p>Comment G9</p> <p><u>Provide input of NOI and NEC Forms:</u></p> <p>Would like to provide comments of the NOI / NEC Forms</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ does not anticipate many, if any, changes to the NOI or NEC process in myDEQ based on the new permit.</p> <p>However, comments on the myDEQ portal application are welcomed.</p>
<p>Comment G10</p> <p><u>WOTUS Rule and ephemeral washes:</u></p> <p>The new permit does not align with the EPA proposed Water of the US Rule (ephemeral waters).</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Fort Huachuca • Salt River Materials Group 	<p>As noted in the comment, EPA's Waters of the U.S. rule is in draft form and is not finalized or implemented. Draft or prospective changes to implementing rule requirements cannot be incorporated into permits. In the event that the rule becomes final and is implemented during the permit term, ADEQ will assess impacts and make a determination as to what appropriate actions to take with respect to the permit.</p>
<p>Comment G11</p> <p><u>Change of "Facility" to "Site":</u></p> <p>Why the change of "facility" to "site"? What are the permitting implications?</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • City of Phoenix • Pima County 	<p>The word facility was changed to site to more adequately reflect the definition of site for permitting purposes, where the regulated industrial portion of the site could incorporate the facility or incorporate the activity. Site (see 40 CFR 122.2) means the land or water where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. The change from facility to site was not intended to change the scope of the permit.</p> <p>For clarification as it pertains to this permit, site applies to the industrial portion of the site.</p>
<p>Comment G12</p> <p><u>Complete and Accurate NOI and SWPPP Review:</u></p> <p>How does ADEQ determine if the NOI / SWPPP are complete and accurate and how does ADEQ notify the applicant if there is a deficiency?</p>	<p>The SWPPP requirements are defined in Permit Part 5.0. ADEQ compares the content of the SWPPP to the required components listed in the permit.</p> <p>If a SWPPP is required to be submitted, or is submitted voluntarily, ADEQ will review the SWPPP against the permit requirements. If ADEQ determines the SWPPP is incomplete, ADEQ will notify the applicant in writing that the SWPPP must be revised and resubmitted, and the timeframe to re-submit the revised SWPPP. ADEQ's website has</p>

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<p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperatives • Nucor Steel 	<p>additional resources, including a SWPPP template and a SWPPP checklist to assist permittees in preparing a complete and accurate SWPPP in accordance with the permit requirements.</p> <p>The permit Part 1.1.4.6 .4 and 1.1.4.7.4, indicate that within 30 calendar days of the receipt of the SWPPP, ADEQ will notify the applicant if the SWPPP is approved, incomplete or not eligible for the general permit. While the permit indicates 30 days, it is the departments' goal to respond within 7 days.</p> <p>For NOIs, if the SWPPP is not required to be submitted with the NOI as part of the permitting process, the applicant is issued the authorization certificate upon completion of the NOI process. In the event ADEQ determines the NOI is inaccurate (facility place / location, outfall, industrial activity, etc.), ADEQ will notify the applicant in writing, electronically, or by phone, of the deficiencies that must be corrected. This may occur at any time during as part of ADEQ's data governance, inspection, complaint, or other means.</p>
<p>Comment G13</p> <p><u>Compliance with Permit Conditions:</u></p> <p>ADEQ should reinstate the sentence "ADEQ expects that compliance with other conditions in this permit will control discharges as necessary to not cause or contribute to an exceedance of an applicable water quality standard.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ has maintained a similar statement in the Fact Sheet (V.B.I). Expectations for permit compliance are better described in the Fact Sheet, rather than in the permit that defines the specific requirements to be met.</p>
<p>Comment G14</p> <p><u>Benefits of Rule Making:</u></p> <p>Subjecting the MSGP's renewal proceeding to the formal rigors of Arizona's rulemaking process, including Governor's Regulatory Review Council, would help ensure that the final MSGPs do not</p>	<p>While ADEQ agrees that <i>rules</i> are subject to Arizona's formal rulemaking process, the issuance or re-issuance of an AZPDES general permit that is in compliance with the Clean Water Act, Arizona's revised statutes, and corresponding state and federal NPDES / AZPDES permitting rules, is not subject to the</p>

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<p>violate Arizona’s law for being more stringent than the federal that deals with the same subject matter.</p> <p><u>Commenter:</u> Salt River Materials Group</p>	<p>rulemaking process.</p> <p>The AZPDES rules that the Arizona legislature required ADEQ to adopt and implement (A.R.S. 49-255.01(C)(1)) largely incorporates the federal rules (40 CFR 122) for Clean Water Act permits, which requires the permitting authority to establish conditions and limitations in the permits to meet the objective of the CWA.</p>
<p>Comment G15</p> <p><u>Repeated Information throughout Permit:</u></p> <p>There appears to be a significant amount of repeated information from the main Permit text. Recommend removing redundant sections from either the permit or Appendix as appropriate.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • ADOT 	<p>ADEQ has reduced redundancies where appropriate. Other sections have been left as written to add emphasis to certain sections.</p>
<p>Comment G16</p> <p><u>Definitions in Permit:</u></p> <p>We recommend reinstating the following 2010 MSGP Part 2.0: "...the term 'minimize'. ADEQ should define "Qualified Personnel" and also use in reference to SWPPP preparation.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix. 	<p>ADEQ relocated definitions from the permit and placed them into the Definition Section of Appendix A.</p>
<p>Comment G17</p> <p><u>Issuance of an AZPDES General Permit is Subject to the Administrative Procedures Act:</u></p> <p>One commenter suggested that ADEQ is in violation of Arizona’s Administrative Procedures Act (APA) by not following the formal rule making process.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>ADEQ disagrees that the issuance, or reissuance, of an AZPDES general permit is subject to Arizona’s APA.</p> <p>When Arizona was granted authority by U.S. EPA to implement the AZPDES program, the department entered into a comprehensive process to determine the legal requirements of administering the program.</p> <p>As documented in the Notice of Formal Rulemaking (Arizona Administrative Register, Volume 7, Issued No. 52, December 28, 2001), ADEQ concluded that general permits themselves need not be in a rule, but a process for issuing general permits, which is consistent</p>

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	<p>with the procedures required by the Clean Water Act and Arizona law, must be developed in rule.</p> <p>Pursuant to A.R.S. §49-255.01(C)(1), which states that "...[t]he rules adopted by the director shall provide for: <i>issuing, authorizing, denying, modifying, suspending or revoking individual or general permits</i>. As such, it is clear that the legislature's intent is for the department to have rules to issue general permits, not that general permits be <i>in rule</i>.</p> <p>The issuance of AZPDES general permits that are not <i>in rule</i> is consistent with U.S. EPA's approach of issuing and re-issuing general permits. Rather than U.S. EPA re-issuing general permits in rule (i.e., Code of Federal Regulations), U.S. EPA re-issues NPDES general permits consistent with the Clean Water Act and federal rules for NPDES permits.</p> <p>Since general permits are not in rule, APA does not apply.</p>
<p>Comment G18</p> <p><u>General Permits are Rules:</u></p> <p>ADEQ should explain why APP general permits are rules, but Arizona's MSGPs for stormwater discharges are not rules.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>As established in the Notice of Final Rule Making (Arizona Administrative Register, Volume 7, Issue #52, December 28, 2001, p. 5888), after a review of relevant statutes, the department concluded that general permits themselves need not be in rule, but a process for issuing general permits, which is consistent with procedures required by the Clean Water Act and Arizona law, must be developed in rule.</p> <p>Pursuant to A.R.S. §49-255.01, ADEQ developed and adopted the rules to issue both individual and general AZPDES permits (A.A.C. Title 18, Chapter 9, Article 9).</p> <p>The issuance of AZPDES general permits that are not <i>in rule</i> is consistent with U.S. EPA's approach of issuing and re-issuing general permits. Rather than U.S. EPA re-issuing NPDES general permits in rule (i.e., Code of Federal Regulations), U.S. EPA re-issues NPDES general permits consistent with Clean Water Act and federal rules for NPDES permits.</p> <p>Arizona's Aquifer Protection Program (APP) is a state program for protecting groundwater and ADEQ elected to issue general permits <i>in rule</i>,</p>

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	<p>rather than <i>by rule</i>. Many of the APP general permits are static, and not subject to a set frequency to be reissued.</p> <p>By contrast, pursuant to the Clean Water Act, NPDES / AZPDES permits cannot be issued for a period of more than five years. By issuing general permits <i>by rule</i> rather than <i>in rule</i>, ADEQ can re-issue AZPDES general permits more efficiently while still allowing stakeholder participation, including formal public notice in the Arizona Administrative Register, and opportunity for public hearing.</p>
<p>Comment G19</p> <p><u>Process During Rulemaking Moratorium:</u></p> <p>ADEQ could engage in a rule making to renew the MSGPs by applying to the Office of the Governor for permission to do so.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>As discussed in Comment G17, general permits themselves are not rule. Consistent with ADEQ's statutory authority to issue / re-issue AZPDES general permits (A.R.S. §49-255.01(C)(1)) the department is re-issuing the industrial stormwater general permits by publication, and therefore in compliance with the statutory mandate to adopt, by rule, a permit program that is consistent with the requirements of the Clean Water Act. See A.R.S. §49-203(A)(2).</p> <p>See also Comment G17.</p>
Permit Part 1	
<p>Comment 1A</p> <p><u>New Notice of Intent Submission</u></p> <p>Some commenters had questions and concerns about submitting a new Notice of Intent to obtain coverage under the re-issued permit, as well as the corresponding initial NOI fee.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Public Service • Phoenix Gateway Airport • Fort Huahchuca 	<p>The permit specifies that existing permittees (i.e., those covered under ADEQ's 2010 MSGP) are required to submit a new NOI within the timeframe specified in the permit to obtain coverage under the new permit.</p> <p>This requirement follows with the federal rule that specifies that "If a permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit." (40 CFR 122.41(b), Duty to reapply)</p> <p>ADEQ will work to make this process easier for permittees who have existing permit coverage in myDEQ by creating a "copy" feature of the NOI associated with the 2010 MSGP. The copy feature will pull the existing information and require the permittee to review, revise, and certify the new NOI.</p> <p>Pursuant to Arizona Administrative Code, Title 18, Chapter 14, Article 1, Table 6, the initial fee</p>

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	will be assessed for the new NOI.
<p>Comment 1B</p> <p><u>Revised NOI:</u></p> <p>Some commenters expressed concerns about submitting a revised NOI, and fee, when there was a change that needed to be made to an NOI previously submitted.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Arizona Public Service 	<p>In order for accurate information to be on file with ADEQ, the permit requires permittees to submit a revised NOI under certain conditions. Conditions that may require a revised NOI include: new contact information, adding / removing an industrial activity, or adding / removing an outfall. Other features cannot be updated, such as the facility address or location.</p> <p>Consistent with A.A.C. R18-14, there is no fee for submitting a revision to an active NOI on file with ADEQ. Note, this is different than submitting a new NOI for coverage under the re-issued permit (see Comment 1A).</p>
<p>Comment 1C</p> <p><u>Discharges to Waters of the State</u> v. <u>Discharges to Waters of the U.S.</u></p> <p>One commenter questioned how a pollutant discharged above a Surface Water Quality Standard (WOTUS) to a “water of the state,” which has no applicable standards, would protect the downstream designated use in a Water of the U.S. if no permit is required.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Pima County 	<p>If a discharge will reach a Water of the U.S., either directly or by way of a conveyance (including ditches, streams, channels, etc.), the facility must have permit coverage that authorizes the discharge, and comply with all applicable requirements of the permit and the Clean Water Act to ensure protection of the WOTUS.</p>
<p>Comment 1D</p> <p><u>Expand the List of Allowable Non-Stormwater Discharges:</u></p> <p>A request was made to expand the list of “allowable non-stormwater discharges” in Part 1.1.3.1 to include discharges resulting from a potable water line break.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>The list of allowable non-stormwater discharges in the permit are consistent with those non-stormwater discharges specified in 40 CFR 122.26(d)(2)(iv)(B)(1), and does not include discharges from potable water line breaks.</p> <p>ADEQ notes that the city of Phoenix has coverage under ADEQ’s DeMinimis General Permit (DMGP) for other non-stormwater discharges. Provided permit conditions are met, the DMGP includes coverage for potable water line breaks.</p> <p>No changes were made in response to this comment.</p>

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<p>Comment 1E</p> <p><u>Tenants and NOIs</u></p> <p>It is unclear if tenants have to submit their own NOIs.</p> <p><u>Commenters</u></p> <ul style="list-style-type: none"> • Fort Huachuca 	<p>Each owner or operator of a facility that requires MSGP coverage, must apply for their own coverage (for example a tenant at an airport). However, tenants may opt to be covered under a common SWPPP.</p>
<p>Comment 1F</p> <p><u>Incomplete and Inaccurate NOIs:</u></p> <p>ADEQ has revised this section, but it is unclear if an incomplete/inaccurate NOI submittal rejected by ADEQ requires an additional application fee for resubmittal of the NOI to ADEQ. Detail the conditions under which ADEQ would reject an NOI application.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ has removed the “incomplete” language from this section and has added clarification language to Table 1-2 regarding the submittal of fees for an inaccurate or revised NOI.</p> <p>Conditions under which ADEQ could reject an NOI would be inaccurate or missing information (omitted outfalls).</p>
<p>Comment 1G</p> <p><u>Co-permittees moving location within an airport:</u></p> <p>Under co-permittee scenario at an airport, do tenants that move to a different terminal need to submit a revised NOI?</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Yes. Anytime a permittee moves a location (change in physical location of a facility), they must submit a new NOI. Permit coverage is not transferable to a person or location. Per the U.S. EPA E-Reporting Rule, permit information such as the facility site address is required and reported to U.S. EPA.</p> <p>A change in mailing address would not require a new NOI.</p>
<p>Comment 1H</p> <p><u>NOI Submission Time frames, Table 1-2:</u></p> <p>Some commenters requested for more time to submit NOI and update SWPPP in Table 1-2.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • City of Mesa • BHP Copper • Department of the Air Force 	<p>ADEQ revised Table 1-2, for Change in Ownership, Change in Site Location, and Change in Site Name to submit a NOI 30 calendar days from the applicable change.</p> <p>ADEQ has left the 60 days for existing discharger and 30 days for a new discharger to submit an NOI.</p> <p>It should be noted, for example, that the NOI submission date for existing dischargers is 60 days from the effective date of the permit. The effective date is January 1, 2020. There</p>

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	is approximately eight (8) months from the time the permit is issued, until the NOI has to be submitted. ADEQ believes this time frame is adequate to update or prepare a SWPPP.
<p>Comment 1I</p> <p><u>Timeframe for SWPPP Update, Table 1-2:</u></p> <p>What is the timeline to update any Stormwater Pollution Prevention Plans (SWPPPs) to be in compliance with the new MSGP?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> Phoenix-Mesa Gateway Airport Authority 	The SWPPPs must be in compliance with the 2019 MSGP by the time the new NOI is submitted.
<p>Comment 1J</p> <p><u>Existing Dischargers, migration, and myDEQ updates, Table 1-2:</u></p> <p>The proposed MSGP states that a new NOI must be submitted within 60 days of MSGP effective date for Existing Dischargers, and ADEQ has indicated in existing NOI information will be automatically migrated by ADEQ into myDEQ. Existing Discharger permittees will not be able to comply with the NOI submittal requirement until the myDEQ system has been updated.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> City of Phoenix 	ADEQ is delaying the effective date of the 2019 MSGP until January 1, 2020 to allow time for updates to myDEQ. Existing permittees will then have until February 28, 2020 to submit a new NOI for coverage under 2019 MSGP.
<p>Comment 1K</p> <p>When to Submit a NOT [Notice of Termination] <u>(Applies to Mining Permit)</u></p> <p><u>NOT and reclamation (mining):</u></p> <p>ADEQ should consider a NOT submission for the following conditions: has met the requirements of Part 8.G.9.1 (Metal Mines) or Part 8.J.10.1 (Mineral Mines) and reclamation is complete for all portions of the site.</p>	ADEQ has added language to Part 1.5.3 (Mining Permit) for NOT submissions when Parts 8.G.9.1 and 8.J.10.1 are met.

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<p><u>Commenter:</u></p> <ul style="list-style-type: none"> BHP Copper 	
<p>Comment 1L</p> <p><u>No Exposure Certification (NEC):</u></p> <p>Include all applicable items from the EPA Guidance Manual or reference the manual if ADEQ intends to add this level of detail to the 2019 MSGP.</p> <p>Clarify if an NEC authorized under the 2010 MSGP remains active for 5 years as specified in Part 1.6.5 or if a new NEC is required.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> City of Phoenix 	<p>ADEQ has summarized the relevant portions of 40 CFR 122.26 (g) and U.S. EPA Guidance Manual to describe conditions required to obtain an NEC.</p> <p>ADEQ clarified that the NEC is nontransferable and shall be resubmitted every five years from the date the NEC is issued.</p>
<p>Comment 1M (and Part 5)</p> <p><u>SWPPP Submission Requirements:</u></p> <p>The SWPPP submittal requirements are more stringent than EPA (Part 1.1.4.6 and Part 1.1.4.7) and do not match SWPPP submittal requirements Part 5.5.</p> <p>ADEQ’s permit indicates the submittal of SWPPP is required when facility is within 2.5 miles upstream of special water, however, U.S. EPA’s 2015 MSGP when the discharge is directly to an impaired water.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> City of Phoenix BHP Copper 	<p>ADEQ retained the 2.5 mile radius to account for upstream tributaries that may contribute to impairments and / or degradation of a downstream receiving water.</p> <p>ADEQ recognizes that surface water quality is not dependent only on direct discharges to a receiving water, but also from contributions of pollutants from upstream tributary sources.</p> <p>To account for varying sources of pollutants, Arizona Administrative Code, R18-11-107.01(F), specifies that discharges that may degrade existing water quality in and OAW or impaired water are subject to an individual antidegradation review at the time the Notice of Intent (NOI) is submitted.</p> <p>ADEQ’s process for conducting the individual antidegradation review for general permits is to require the Stormwater Pollution Prevention Plan be submitted with the NOI. ADEQ reviews the SWPPP to ensure control measures will adequate to protect water quality in OAWs and impaired waters.</p> <p>See also Comment 6U</p>

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<p>Comment 1N</p> <p><u>Building Washwater:</u></p> <p>Routine external building washing, now references bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, and nonylphenols as not allowable. Please explain why that has been added.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Pima County 	<p>The list of example detergents and cleaning agents was added to the permit to identify some common additives that might be used for cleaning the exterior of a structure, but cannot be discharged under this permit. The list of example detergents and cleaning agents was adapted from U.S. EPA's 2015 MSGP.</p>
Permit Part 2	
<p>Comment 2A</p> <p><u>Minimize Exposure: Washwater:</u></p> <p>The last bullet regarding the disposition of washwater should be modified to exclude washwater that qualifies under Part 1.1.3.1.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>ADEQ has modified the permit language to include allowable washwater described in Part 1.1.3.1.</p>
<p>Comment 2B</p> <p><u>Dumpsters:</u></p> <p>It may be infeasible to keep lids closed on large dumpsters or provide secondary containment dumpsters without lids (Good Housekeeping).</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Mining Association • Pinal County • City of Phoenix 	<p>Dry weather discharges from dumpsters or roll-off bins is not allowed under this permit. ADEQ understands that there may be sizeable dumpsters or dumpsters of inert material that may not need lids or secondary containment. In these instances, ADEQ has added the words "where feasible" when it comes to keeping lids closed and "when needed" for secondary containment for dumpsters to Permit Part 2.2.1.2.2.</p> <p>Secondary containment was used as an example of a control measures that could be selected for dumpsters or roll off boxes that could not be covered. The MSGP provides the owner/operator with the flexibility to select other control measures provided they are effectively controlling pollutants as demonstrated through dry weather inspections and other monitoring provisions.</p>
<p>Comment 2C</p> <p><u>Wording</u></p> <p>ADEQ has removed the text "such as" and replaced it with the text "Unless unfeasible, the</p>	<p>ADEQ has removed "unless infeasible" from Part 2.2.1.2.1.</p> <p>The stormwater permit requires permittees to comply with numerous non-numeric effluent limits</p>

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<p>permittee shall." This small word change has significantly altered the MSGP, creating lists of mandates, rather than options. This is extremely prescriptive, much more so than the 2010 MSGP or 2015 EPA MSGP. Consistent with prior permits and other locations within the proposed MSGP, please clarify the language to retain the list as options and examples, rather than mandates.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>(minimize exposure, good housekeeping, maintenance, etc). The permittee <i>shall</i> implement these non-numeric conditions, which are followed by examples of acceptable control measures, using “<i>such as.</i>” The preceding paragraph in 2.2.1 states the permittee shall consider all of these control measures and select those the permittee determines are appropriate given the site conditions.</p>
<p>Comment 2D</p> <p><u>Employee Training:</u></p> <p>This part has been revised to include more detail on training. Please clarify that for large sites with multiple co-permittees, training on specific SWPPPs and the location of controls, etc. is only required for those areas or controls for which the co-permittee is responsible.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ revised Section 2.2.1.2.8, to clarify areas of responsibilities for co-permittees regarding training, SWPPPs, etc.</p>
Permit Part 3	
<p>Comment 3A</p> <p><u>Corrective Action Considerations:</u> Because the Draft Permit typically sets action levels at the applicable SWQS of the receiving water, <u>any</u> exceedance of an action level could trigger corrective action under Condition 3.1.1 even though the not-attaining, impaired or outstanding water is located far downstream. In many cases, stormwater discharges located in tributaries to other waters, especially at great distances (such as several miles upstream), will have no impact on downstream water quality due to mixing, infiltration or evaporation. An inflexible requirement imposing corrective action in circumstances where there is no impact on downstream water quality does not serve any rational purpose.</p> <p>We urge the Department to revise the Draft Permit (Section 3.1.1) to include flexibility for the permittee. For example, if a permittee can demonstrate that its discharge does not reach the</p>	<p>ADEQ has revised portions of Part 3.1.1 and removed the reference to <i>upstream tributary within 2.5 miles</i> in each for their respective sentences.</p> <p>An exceedance of an action level is considered a trigger for the evaluation of control measures and the submittal of a Control Measure Assessment Report (Part 7.2), but does not trigger Corrective Actions.</p> <p>If the action level for routine analytical monitoring is exceeded one or more times, the permittee (or at the request of ADEQ) has an option to make additional demonstrations. .</p>

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<p>downstream water or would have little or no impact on the water if it did, it would not be required to meet the action level for the downstream water or corrective action associated with that action level.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperatives • Nucor Steel 	
<p>Comment 3B</p> <p><u>Corrective Actions:</u></p> <p>Reference to discharges to an MS4 have been removed from 2019 MSGP.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ has inserted “discharge to an MS4” back into Section 3.1.1.</p>
Permit Part 4	
<p>Comment 4A</p> <p><u>Routine Site Inspection Documentation</u></p> <p><u>Undocumented pollutants:</u></p> <p>The third sub-bullet under the fourth bullet is too broad and should be limited to undocumented pollutants.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>ADEQ has added language to include “previously unidentified” pollutants.</p>
<p>Comment 4B</p> <p><u>Visual Assessment Procedures</u></p> <p><u>Representative Sample under Visual Assessment:</u></p> <p>The second sentence of the introduction must be modified to confirm that “sample representation” is dictated by specified stormwater sample collection procedures described in this Part 4.2.1 of the permit.</p>	<p>ADEQ believes the reference to representative sample is adequate and is further described in subsequent paragraph, “<i>within first 30 minutes of an actual discharge</i>” for visual monitoring (Part 4.2.1).</p>

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<p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	
<p>Comment 4C</p> <p><u>Visual Assessments:</u></p> <p>Are visual observations of discharge and associated sampling limited to normal facility operating hours or is the permit meant to be 24/7 for any qualifying discharge at any time day or night?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Wood PLC 	<p>ADEQ language to Part 4.2 to clarify that visual assessments are only required during normal operating hours.</p>
<p>Comment 4D</p> <p><u>Severe Weather Inspections at Inactive Sites:</u></p> <p>Additional inspections for inactive/unstaffed sites must be conducted “whenever there is a reasonable expectation that severe weather or other events may have damaged control measures or increased discharges.” This language is too vague to implement, especially at remote sites. An intensity or threshold to trigger a non-routine inspection - e.g., a 24-hour rainfall amount or other measurable parameter -- should be specified or the requirement removed.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • ADOT 	<p>Inspections at inactive and unstaffed sites are required to be conducted once a year, or in response to severe weather. ADEQ did not implement an intensity of a storm event to inspection requirement in the permit. Sites implement many different controls measures.</p> <p>While one facility may be effective at controlling discharges for a 24 hour storm event, other smaller sites may not. For this reason, ADEQ incorporated language that allows flexibility for permittees to determine what storm event may have damaged control measures or increased discharges at their site.</p>
<p>Comment 4E</p> <p><u>Tri-Annual Inspections at Inactive and Unstaffed Mine Sites:</u></p> <p>Tri-Annual inspections are required to be completed by a qualified person with special training. It places undue burden on the Permittee to require that a Registered Professional Engineer seal the inspection form and serves no purpose since the site inspector is a qualified person.</p> <p><u>Commenter:</u></p>	<p>The requirement for tri-annual inspections at inactive and unstaffed mine sites (that must be signed by a Registered Professional Engineer), certifying that the site is in compliance with the permit, is a federal rule requirement (40 CFR 122.44.B.4.iv.)</p>

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<ul style="list-style-type: none"> • ADOT 	
<p>Comment 4F</p> <p><u>Routine Inspection above and below outfall:</u></p> <p>MSGP states “Areas above and below the outfall(s)” shall be inspected. Indicate these locations must also be assessable and the required inspection distance from the discharge point.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ has changed “above and below the outfall” to inspection of “discharge points” in Part 4.1. ADEQ anticipates the location of the discharge point should be accessible (with some rare exceptions).</p> <p>ADEQ cannot establish a “universal” inspection distance from an outfall that would generally apply for <i>all</i> facilities that might seek coverage under the general permit, therefore a distance has not been specified.</p>
Permit Part 5	
<p>Comment 5A</p> <p><u>Wording Change in SWPPP Documentation:</u></p> <p>The word “Large” should be replaced with the word “All” in SWPPP Documentation Requirements.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • ADOT • City of Phoenix 	<p>ADEQ removed the word “large” before facilities. The change implies that any facility may retain copies of records and documentation required by this permit electronically or at locations other than with the SWPPP, however, the records must be easily accessible and the SWPPP shall clearly identify where the information is kept.</p>
Permit Part 6	
<p>Comment 6A</p> <p><u>U.S. EPA Water Quality Criteria (benchmarks)</u> v. <u>Arizona Surface Water Quality Standards (action levels)</u></p> <p>Some commenters questioned the substitution of EPA’s benchmark concentrations for Arizona Surface Water Standards as “action levels” for routine analytical monitoring.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Rock Products • Arizona Mining Association • Arizona Public Service • Salt River Materials Group • City Phoenix • Nucor Steel • Arizona G&T Cooperatives 	<p>As discussed in EPA’s 2015 MSGP fact sheet: <i>The process that EPA followed in selecting the benchmark values for the permit is as follows: Step 1: Use EPA’s final CWA section 304(a) recommended acute criterion; Step 2) if no EPA acute criterion exists, use the chronic EPA criterion; Step 3) if neither acute or chronic criteria exist, use data from runoff studies or technology based standards to establish a benchmark.</i></p> <p>EPA’s water quality criteria can be adopted by states, or states can use the criteria to develop state specific standards. Arizona has developed and adopted state standards that are set in state rule (Arizona Administrative Code, Title 18, Chapter 11).</p> <p>ADEQ replaced U.S. EPA’s Water Quality Criteria (WQC) as benchmarks with Arizona Surface Water Quality Standards (SWQS)</p>

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	<p>derived action levels for the following reasons:</p> <ul style="list-style-type: none"> • ADEQ has established SWQS (based on U.S. EPA's WQC) that are protective of Arizona's receiving waters • Using myDEQ, Arizona can apply the appropriate SWQS to the corresponding receiving water based on designated use • Align Arizona's permits with Arizona's environmental conditions <p>As discussed in various stakeholder meetings, Arizona's SWQSs are most often similar to, and sometimes higher than, U.S. EPA's WQC. The impact on permittees is that in some instances, ADEQ's <i>action levels</i> are higher such that control measure assessment requirements in ADEQ's permit would not be implemented as soon as would be required using WQCs.</p> <p>Arizona's surface waters are still being protected based on the scientific studies behind Arizona's SWQS.</p> <p>The permits and fact sheets clarify that SWQS are being applied as "action levels," not standards.</p>
<p>Comment 6B</p> <p><u>Action Levels v. Benchmarks</u></p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Public Service • Arizona Mining Association • Arizona Rock Products • City of Phoenix 	<p>ADEQ proposed this change to clarify that if there is an exceedance of the action level (formerly known as "benchmark"), the permittee is required to take action to assess control measure effectiveness and reduce pollutant discharges.</p> <p>An exceedance of a "benchmark" requires the same action as in the 2010 permit. It is clearer that follow-up actions are required in response to an exceedance by using the phrase "action level."</p> <p>See also Comment 6A for additional information about the rationale for using Arizona SWQS as action levels versus U.S. EPA's WQC (benchmarks).</p>
<p>Comment 6C</p> <p><u>Accelerated Monitoring</u></p> <p>Some commenters expressed concern with</p>	<p>The intent of the proposed accelerated monitoring was to respond to potential impacts to the environment by improving control measures and conducting follow-up monitoring to</p>

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<p>accelerated monitoring in response to a single exceedance of an action level and felt that accelerated monitoring may not always be necessary.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Rock Products • Arizona Mining Association • Arizona Public Service • Salt River Materials Group • City of Phoenix • Nucor Steel • Arizona G&T Cooperatives 	<p>demonstrate the problem has been mitigated.</p> <p>As a result of stakeholder input concerning “default” accelerated monitoring, ADEQ removed the “default” accelerated monitoring requirement from 2019 MSGP, except for ELG monitoring.</p> <p>Consistent with U.S. EPA’s 2015 MSGP, and ADEQ’s 2010 MSGP, the director will continue to assess monitoring results and other applicable factors on a case-by-case basis to determine if additional analytical monitoring is necessary.</p> <p>If ADEQ determines additional monitoring is necessary to demonstrate control measure effectiveness or potential impacts to human health and the environment, the department will notify the permittee in writing of the additional monitoring requirements.</p>
<p>Comment 6D</p> <p><u>Grab Samples v. Composite Samples</u></p> <p>Some commenters expressed concern about the use of grab samples versus composite samples, stating that grab samples, particularly those collected within the first 30 minutes of a stormwater discharge, may not be reflective of the entire stormwater discharge.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Rock Products Association • Arizona Public Service 	<p>ADEQ revised the final permit to include the option for permittees to collect grab samples or flow-weighted composite samples, when appropriate (e.g., pH is required to be a grab sample).</p> <p>ADEQ leveraged flow-weighted composite sampling protocol from 40 CFR 122.21 for stormwater permitting requirements to allow flow-weighted sampling for control measure assessment.</p> <p>If a permittee elects to conduct flow-weighted sampling, it must be reported in the e-DMR, including the number of sample portions (aliquots), flow rate, time between sample portions, and other information to demonstrate it is a representative sample of the stormwater discharge event.</p>
<p>Comment 6E</p> <p><u>Routine Analytical Monitoring</u></p> <p>Some commenters expressed concern with the changes to the monitoring program, including:</p> <ul style="list-style-type: none"> • Monitoring throughout the permit term • The need for making changes to the monitoring program 	<p>As part of ADEQ’s Mission and Vision, the department is continuously improving our processes (including permits), to provide balanced environmental protection through technical and operation excellence, and radical simplicity for our customers and staff.</p> <p>Using lessons learned from ADEQ’s 2010 MSGP permit term, the department identified various areas of improvement, including the following:</p>

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<p><u>Commenters:</u></p> <ul style="list-style-type: none"> • APS • Salt River Materials Group • Arizona Rock Products 	<ul style="list-style-type: none"> • Averaging data for four samples collected over a year is not effective because most (if not all sites) were unable to collect four samples in a single year • Sample results should be submitted more timely, and associated with a sampling event, rather than an arbitrary, annual submission date • Reporting to ADEQ should be in response to an exceedance of an action level rather than an annual report <p>Changes to the monitoring program include the following:</p> <ul style="list-style-type: none"> • Collect one sample per wet season (two per year), rather than two samples per wet season (four per year) • No averaging sample results • Implement routine analytical monitoring for the duration of the permit (10 samples over five years) <p>By incorporating the new monitoring framework into ADEQ’s 2019 MSGP, potential problems that could be impacting human health and the environment will be identified and responded to in a timely manner. This is accomplished by:</p> <ul style="list-style-type: none"> • Submitting results within 30 days of receiving analytical results • Conducting routine analytical monitoring two times per year for the duration of the permit • Assessing control measures in response to exceedance of an action level, and • Preparing and submitting a Control Measure Assessment Report (CMAR) to ADEQ in response to an exceedance of an action level
<p>Comment 6F</p> <p><u>Ephemeral Water Exemption:</u></p> <p>Some commenters expressed concern about removing the exemption to sample for Total Suspended Sediment (TSS) or Suspended Sediment Concentration (SSC) in the re-issued permit.</p>	<p>Pursuant to A.A.C. R18-11-109(D), Arizona’s Suspended Sediment Concentration (SSC) standard does not apply to ephemeral water for the first 48 hours after a storm event.</p> <p>Based on discussions with stakeholders as part of the re-issuance of Arizona’s 2010 MSGP, ADEQ removed SSC and Total Suspended Sediment (TSS) monitoring associated with the</p>

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<p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona Rock Products Association • Arizona Mining Association 	<p>general analytical monitoring for discharges to ephemeral waters.</p>
<p>Comment 6G</p> <p><u>Proposed Monitoring Requirements Exceed ADEQ's Authority:</u></p> <p>Some commenters suggested ADEQ is exceeding its authority by being more stringent than the federal Clean Water Act by deviating from the monitoring requirements in U.S. EPA's 2015 MSGP.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>ADEQ disagrees that the department is in violation of Arizona Revised Statutes, Title 49-255.01, or Title 49-104 by prescribing monitoring requirements different from U.S. EPA's 2015 MSGP.</p> <p>While ADEQ used various portions of U.S. EPA's 2015 MSGP, Arizona's arid climate poses unique challenges when regulating stormwater. Therefore, the parameters and the frequency of monitoring were modified to protect Arizona's surface waters based on industry types and to accommodate our unique environment, including unpredictable sporadic precipitation events.</p> <p>See also Comment G3</p>
<p>Comment 6H (Mining)</p> <p><u>Inactive and Unstaffed Timeframes:</u></p> <p>ADEQ has significantly expanded the requirements for certain inactive and unstaffed sites from the existing requirements of both ADEQ's 2010 MSGP and EPA's 2015 MSGP.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>Based on stakeholder feedback, ADEQ removed the proposed requirement for a facility to be inactive / unstaffed for six (6) consecutive months to qualify for the reduced requirements (see Part 6.4.4).</p>
<p>Comment 6I</p> <p><u>When to Collect Samples:</u></p> <p>The permit is not clear on when and how to collect stormwater samples.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>ADEQ added language in Part 6.1.2. and 6.1.3 to clarify sampling requirements, including the allowance of flow-weighted samples, various sampling methods (passive sampler, automatic sampler, etc.) and when to collect a sample.</p> <p>If the permittee is required to conduct analytical monitoring, samples must be obtained in response to a storm event that results in a discharge from the facility. Separate storm events are those that are greater than 72 hours apart (40 CFR 122.21).</p>

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<p>Comment 6J</p> <p><u>Outfall Sample Locations:</u></p> <p>Because outfalls are not always at the boundary, there permit should provide flexibility where stormwater discharge samples can be collected.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperatives • Nucor Steel 	<p>For the purpose of this permit, outfalls are defined as “the location(s) where stormwater is discharged from the facility or site” (see Appendix A of the permit).</p> <p>Outfalls can be within or at the facility or site boundary, or at the location where stormwater discharges directly into a receiving water, storm drain, or other feature located within or at the facility or site boundary.</p>
<p>Comment 6K</p> <p><u>SWQS for alert levels and how they apply:</u></p> <p>The permit does not make clear what constitutes the receiving water for purposes of determining which SWQS will be applied to the discharge. As the Department is aware, it is not uncommon for dischargers to be located in areas remote from jurisdictional waters. There are numerous examples one can point to where a permittee discharges to a ditch or feature not meeting the nebulous definition of “waters of the United States” that ultimately flows to such a water. In other circumstances, a discharge to a non-jurisdictional feature could occur and never reach a jurisdictional water. In these scenarios, it is unclear which SWQS would be applied to the discharge or whether it is appropriate to impose a SWQS-based action level in the first place.</p> <p>The permit should provide flexibility regarding which water is the basis for the SWQS-derived action levels. It may, in some circumstances, be appropriate to apply the SWQS of the first jurisdictional water the discharges reaches. In other circumstances, due to the distance between the discharge and the location of the first jurisdictional water, it may be appropriate to relax the SWQS-based action level. We suggest that a provision be added in Section 2 allowing the discharger to determine and document a rationale why a potentially applicable action level is not appropriate, based on site-specific factors. This would reduce the potential for overly-burdensome corrective actions where there is no impact on a</p>	<p>When an applicant gets a new or migrates the NOI in myDEQ, the receiving water for each outfall is selected. The receiving water is surface water that will eventually receive stormwater discharges from the site (that may include other conveyances, such as an MS4). The myDEQ system lists the Appendix B receiving waters and unnamed tributaries as selections. For dischargers that enter an MS4 prior to discharge, the first Water of the U.S. to which you discharge, is the water body that receives the stormwater discharge from the MS4.</p> <p>The selected receiving water(s), and its applicable designated use, drive the action level. In instances where water quality standards apply to a surface water that is not listed in Appendix B but the tributary is to a listed water, the Tributary: Designated Uses rule will apply (R18-11-105).</p> <p>ADEQ has added clarification to Part 6.2.1 describing how alert levels will be determined for routine analytical monitoring.</p> <p>If a stormwater discharge will not reach a Water of the U.S. directly or by means of a conveyance, such as a MS4, permit coverage is not required. ADEQ anticipates developing a “No Discharge Certification” option that will be imbedded in the NOI path. If the user concludes stormwater discharge from the facility will not reach a Water of the U.S., he/she can elect the No Discharge Certification option.</p>

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<p>downstream jurisdictional water. Such flexibility would also allow reduce the burden on the Department as the permittee to maintain coverage under the general permit.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperative • Nucor Steel 	
<p>Comment 6L</p> <p><u>Background Samples:</u></p> <p>Is background demonstration for sample results above an action level required to be submitted to ADEQ? If the demonstration was previously made, are the results still applicable to this permit term?</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperative • Nucor Steel 	<p>Although the sample result above an action level demonstration section in the draft permit was removed from the final permit, any technical demonstrations related to sampling (background, run-on, will not cause or contribute, etc) should be submitted to ADEQ for review and approval.</p> <p>ADEQ will consider sampling results as part of a previous demonstration, however sampling under the 2019 MSGP, should commence within 90 calendar days of receiving authorization to discharge.</p>
<p>Comment 6M</p> <p><u>Benchmark Parameters:</u></p> <p>Has the agency considered the standards set for Magnesium in stormwater runoff? I have seen repeated benchmark exceedances due to background levels. Should there be a different standard?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Safety Kleen 	<p>In the 2019 MSGP ADEQ has removed many of the parameters that did not have an Arizona surface water quality standard (SWQS) from the sector specific monitoring.</p> <p>Magnesium does not have a SWQS and is no longer required to be monitored under routine analytical monitoring.</p>
<p>Comment 6N</p> <p><u>Parameters and Frequency of Monitoring:</u></p> <p>The parameters and frequency should be the same as the EPAs 2015 MSGP.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • City of Phoenix • Salt River Project • Arizona Public Service 	<p>While there may be similar requirements with U.S. EPA's 2015 MSPG, Arizona's arid climate poses unique challenges when regulating stormwater. Therefore, the parameters and the frequency of monitoring were modified to protect Arizona's surface waters based on industry types and to accommodate our unique environment, including unpredictable sporadic precipitation events.</p> <p>See also Comment G3</p>

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<p>Comment 6O</p> <p><u>Averaging of Benchmark Values over Time:</u></p> <p>The new permit should keep the averaging of benchmark values.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>Routine analytical monitoring is no longer an average of two to four events. Routine analytical monitoring will consist of the reporting of one sample result (one grab or one flow-weighted composite). The averaging of sample results over numerous wet seasons, does not address the acute nature of stormwater impacts. Additionally, the averaging of sample values over time does not consider Arizona’s semi-arid climate, where it could be months, possibly even a year between measurable storm events.</p> <p>See also Comment 6D</p>
<p>Comment 6P</p> <p><u>Request for Reduced Monitoring:</u></p> <p>The permit should incorporate reduced monitoring if permittee meets action levels. The sampling for duration of permit is burdensome.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperatives • Nucor Steel • Fort Huachuca 	<p>Stormwater monitoring is necessary to ensure permittee’s control measures are effective and protective of the environment by minimizing pollutants present in the discharge. Ceasing monitoring following 2 or 4 sampling events (after the first year of permit coverage), provides little to no feedback on the effectiveness of the implemented control measures at the site for the remainder of the permit term (permit year 2 through year 5). Sites are dynamic and in a constant state of change, including changes in site practices, personnel, and the up-keep or replacement of control measures.</p> <p>The monitoring in the 2019 MSGP of once per wet season, represents an appropriate level of oversight to ensure the SWPPP is effectively implemented. ADEQ expects this effort will identify and address any deficiencies with the SWPPP and promote more effective industrial stormwater management for the duration of the permit.</p> <p>Furthermore, sampling throughout the duration of the permit term will gather additional data to evaluate the changing pollutant levels for the various storm events (flow, duration, volumes), particularly between periods of long dry spells.</p>

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<p>Comment 6Q</p> <p><u>Calculation of monitoring parameters using myDEQ:</u></p> <p>The MSGP indicates that the appropriate parameters and action levels will be issued with the authorization certification or will be assigned by ADEQ Please clarify if the intent is for myDEQ to automatically calculate monitoring parameters. There also exists a potential for error with the automatic assignment of the routine analytical monitoring.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>MyDEQ calculates the monitoring parameters, action levels or permit limits based on geographic location, sector and receiving water that is entered onto the NOI.</p> <p>Because myDEQ is pulling information from a number of GIS layers and informational tables, the data generated on the eDMR is expected to be accurate. However, if the permittee notices an error on eDMR, please contact ADEQ so that any discovered problems can be resolved.</p>
<p>Comment 6R</p> <p><u>Action Level and Exceedance:</u></p> <p>ADEQ has indicated that sampling results above an Action Level are not an exceedance. Please remove all references to "exceedance" when referring to Routine Analytical Monitoring Action Levels and ensure the term "Action Level" issued.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ has removed the reference to "alert level" and "exceedance" where appropriate. However, pollutant concentration greater than the action level is an exceedance of the action level.</p>
<p>Comment 6S</p> <p><u>Term "Necessarily" for Action Levels in RAM Section:</u></p> <p>Throughout these documents, the following phrase is included: "The exceedance of a routine analytical monitoring action level does not <u>necessarily</u> constitute a permit violation" (see for example, Part 6.2.1 (page 33), Part 7.2 (page 39), definition for Action Level for Routine Analytical Monitoring (Appendix A), and Fact Sheet Section IX.B.(I) and X.B). The term "necessarily" should be removed consistent with the text in the 2019 MSGP Section 3.0.</p>	<p>ADEQ removed the term "necessarily" from permit parts dealing with action levels for routine analytical monitoring.</p>

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<p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix • Arizona G&T Cooperative • Nucor Steel 	
<p>Comment 6T</p> <p><u>Effluent Limitation Guideline (ELG) Monitoring:</u></p> <p>Increasing ELG monitoring from one time per year to two times per year is more stringent than EPA's 2015 MSGP.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>ADEQ's 2019 MSGP, reduces routine analytical monitoring to two times per year from four times per year in 2010 MSGP.</p> <p>In an effort to make conditions consistent throughout the permit, ADEQ proposed to increase ELG monitoring from one time per year to two times per year.</p> <p>Changing ELG monitoring from one time per year to two times per year would not require an additional monitoring event or activity, but an additional parameter(s) associated with each routine analytical monitoring event. However, stakeholders suggested it was not necessary because the federal rule (40 CFR 440) does not specify monitoring frequency.</p> <p>Federal rules, 40 CFR 122.48, which are incorporated into Arizona's AZDPES rules (A.A.C R18-9-A905) establish the department's authority to establish monitoring type and frequency in permits, including ELG monitoring when it is not otherwise prescribed in state or federal rule.</p> <p>However, ADEQ is retaining the requirement to conduct ELG monitoring one time per year in the 2019 MSGP. ADEQ will assess the need for additional ELG monitoring on a case-by-case basis throughout the permit term.</p>
<p>Comment 6U</p> <p><u>Special Waters Monitoring for Upstream Tributaries:</u></p> <p>Applying upstream tributary monitoring within 2.5 miles of special waters is more stringent than EPA's 2015 MSGP.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>ADEQ retained the requirement for monitoring if a discharge is within a 2.5 mile radius (upstream) from special waters used in the department's 2010 MSGP.</p> <p>Many of Arizona's surface water are impaired due to contributions from upstream tributaries to the impaired water, not just discharges directly to the impaired water.</p> <p>ADEQ's authority to ensure discharges to impaired waters and OAWs will not degrade water quality is found in A.A.C R18-11-107.</p>

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	<p>ADEQ’s inclusion of upstream tributaries is consistent with the Clean Water Act, and federal and state rules by including conditions, limitation, and requirements necessary to ensure surface water protection.</p> <p>See also Comment 1M.</p>
<p>Comment 6V</p> <p><u>Required Parameters for Analytical Monitoring:</u></p> <p>Changing general analytical monitoring parameters (routine analytical monitoring parameters) from those specified in U.S. EPA’s 2015 MSGP exceeds ADEQ’s authority.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Material Group 	<p>Pursuant to the Clean Water Act Section 402(b), the permitting authority is required to establish conditions to carry out the provisions of the CWA. The director has the responsibility to ensure permits are issued consistent with the CWA.</p> <p>ADEQ evaluated the monitoring parameters for each sector to assess pollutants that are likely, or have a reasonable potential, to be associated with each industrial activity. As a result of this review, ADEQ substituted, deleted, or added parameters for some industry sectors.</p> <p>Notably, ADEQ removed parameters such as chemical oxygen demand (COD) and biological oxygen demand (BOD) as these are parameters that can be difficult to interpret and apply to control measure assessment.</p> <p>Assessing analytical parameters and substituting, adding, or deleting pollutants, as well as establishing other permit conditions, is incumbent upon the permitting authority, as required by the CWA.</p>
<p>Comment 6W</p> <p><u>Inconsistent Monitoring Between the Industrial Permit and Mining Permit:</u></p> <p>Similar to the mining permit, ADEQ should exclude monitoring pending the outcome of the NAS study for the Industrial Permit</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Salt River Materials Group 	<p>ADEQ’s 2010 MSGP and 2019 MSGP include monitoring for both permits (the mining permit and the industrial permit). The mining permit refers to it as “general analytical monitoring,” while ADEQ’s 2019 industrial stormwater permit refers to “routine analytical monitoring.”</p> <p>The monitoring frequency is the same in both permits, one time per wet season (two times per year), and reported electronically within 30 days of receiving results.</p> <p>ADEQ did retain the exemption from the 2010 Mining Permit of strictly applying action levels to sample results for Sector G and J. As with the 2010 Mining Permit, ADEQ will evaluate sample</p>

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	results on a case-by-case basis and determine follow-up actions, if necessary.
<p>Comment 6X</p> <p><u>Total v. Dissolved Metals:</u></p> <p>The permit requires total metal analyses for samples. If the action level for a metal is in the dissolved phase, how is a comparison made?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> Arizona Public Service 	<p>The permit was revised to specify that, if an action level for a metal is in the dissolved phase, the permittee has the option to have the sample analyzed for the total or dissolved phase metal. In addition to the routine analytical monitoring tables in Section 8 of the permit, the NOI certificate will specify whether the action level is for total or dissolved.</p> <p>A permittee may elect to sample and analyze for total metals (rather than dissolved) when the expectation is that the results would be similar, or to reduce sampling and analysis efforts associated filtering the sample for the dissolved phase metal(s).</p>
Permit Part 7	
<p>Comment 7A</p> <p><u>Control Measure Assessment Report:</u></p> <p>Submitting a Control Measure Assessment Report (CMAR) after 1 single event is burdensome. 30 days is not enough to compile all that information.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> Arizona G&T Cooperatives Nucor Steel 	<p>Under this general permit, ADEQ must ensure that appropriate measures will be taken to not cause or contribute to exceedance of a surface water quality standard. ADEQ choose to shorten the time frame for responding to a sample result above an action level, rather than wait for a second, third or fourth verification event to evaluate control measures (which could span over a year's time frame given Arizona's arid climate).</p> <p>ADEQ believes 30 days from the receipt of one laboratory analytical result is an adequate amount of time to evaluate and revise control measures, as needed. The CMAR is an opportunity to provide an explanation for the sample result or the reason why additional time may be needed to modify control measures, and ultimately confirms the permittee has assessed site conditions within a reasonable time frame. The 30 day report provides ADEQ with timely notification of potential issues that may be occurring at the site.</p>
<p>Comment 7B</p> <p><u>Discharge Monitoring Report (DMR) Submittal:</u></p>	<p>The potential for any discharge to Waters of the U.S. should be carefully evaluated and documented by the operator. If there is never a stormwater discharge to Waters of the U.S., the operator does not need to</p>

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<p>Why do I have submit a Discharge Monitoring Report if I do not discharge to a surface water?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Fort Huachuca 	<p>obtain MSGP coverage.</p> <p>If a permittee has the appropriate MSGP coverage and there is not discharge during a reporting period, the applicant can submit a NO DATA DMR through myDEQ to indicate there was no discharge.</p>
<p>Comment 7C</p> <p><u>DMR and Sampling Exemptions:</u></p> <p>Requiring a DMR to be submitted for a site that has been determined exempt from sampling is not reasonable and incurs administrative and reporting duties that are unnecessary and have no purpose.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • ADOT 	<p>If a facility is not required to conduct analytical monitoring (routine/general analytical monitoring, ELG monitoring, etc.) there is no requirement to submit an eDMR.</p> <p>However, in the case of an inactive and unstaffed site, the facility is not exempt from monitoring, but rather monitoring is suspended. In this instance, the eDMR is still required to be submitted. ADEQ has developed a No Discharge Code (NODI) to simplify the reporting under various scenarios, including for inactive and unstaffed facilities. As with sample results, the NODI code is transmitted to U.S. EPA, as require by the NPDES electronic reporting rule. This information documents the facilities status and compliance with permit condtions.</p>
<p>Comment 7D</p> <p><u>eDMR is Cumbersome:</u></p> <p>Make the eDMR more user friendly.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Cochise County Solid Waste Department 	<p>As part of the 2019 re-issuance, ADEQ will be updating the online permitting tool, myDEQ.</p> <p>ADEQ anticipates that eDMR reporting for each sampling event will make the process more user friendly since it will be for discrete sampling events (less data entry), as opposed to four sampling events on the same DMR.</p> <p>ADEQ welcomes additional input on myDEQ functionality to better serve our customers.</p>
Permit Part 8	
Sector G	
<p>Comment 8.G1</p> <p><u>Parameter Change for Sector G:</u></p> <p>Why change the sampling parameters? Why remove COD for Sector G?</p>	<p>The routine analytical monitoring requirements in the MSGP are appropriately tailored to the pollutants of concern in each sector and at levels that are specific to Arizona’s water quality protection (surface water quality standard). Parameters without Arizona surface water quality standards</p>

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<p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>(such as COD, magnesium) were removed from the sampling parameters and replaced with parameters that have an Arizona surface water quality standards.</p> <p>For example Sector G (including copper mines), COD was replaced with copper, a likely pollutant for that type of activity, and a parameter that has applicable surface water quality standard.</p> <p>It was unclear how to apply and estimate the impact to surface waters based on COD concentrations, when there is no standard for COD in any of Arizona’s receiving waters.</p>
<p>Comment 8.G2</p> <p><u>Site Map - Sector G</u></p> <p>The location of mine drainage, dewatering or other process water to the extent that it has a potential to come into contact with or otherwise impact stormwater, including during an upset event or as a result of operator error should be clarified in site map depictions.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>ADEQ has clarified language in Part 8.G.6.2 to include <i>“mine drainage, dewatering or other process water to the extent that it has a potential to come into contact with or otherwise impact stormwater.”</i></p>
<p>Comment 8.G2 & J</p> <p><u>Correct references for Reclamation – Sector G & J:</u></p> <p>Correct the references in Part 8.G.9.1 and 8.J.10.1. The correct permit reference is 8.G.9.2 and 8.J.10.2, which provides a pathway for stormwater permit termination absence of a state or federal reclamation program and attendant reclamation plan release.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • BHP Copper 	<p>ADEQ has corrected the reference(s) regarding reclamation requirements in Part 8.G.9.1 and 8.J.10.1 to reference Part 8.G.9.1 and Part 8.J.10.2.</p>

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Sector J	
<p>Comment 8.J1</p> <p><u>Covered Construction Activities:</u></p> <p>Please clarify what construction activities are covered under Sector 8.J.4.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> Arizona Department of Transportation 	<p>Consistent with ADEQ's 2010 MSGP, Sectors G and J incorporate construction activities that would otherwise be subject to coverage under Arizona's Stormwater Construction General Permit (CGP).</p> <p>ADEQ included coverage for construction activities for Sectors G and J because, due to the nature of mining and quarrying operations, they are frequently engaged in activities that meet the stormwater construction permitting requirements.</p> <p>Incorporating construction activity permitting in the MSGP reduces the burden on customers of obtaining and complying with separate permits.</p> <p>The MSGP includes construction activity coverage for the various phases of mining operations, including: exploration, development, and active mining.</p> <p>The thresholds for when a permittee would be subject to the construction activity requirements in the MSGP are consistent with the federal rule requirement, including activities that disturb one or more acres, or less than one acre, but are part of a larger plan of development (see 40 CFR 122.26(b)(15)).</p>
<p>Comment 8.J1</p> <p><u>Sector J Inspections:</u></p> <p>This paragraph only repeats information from section 4.1 and should be deleted as it is redundant (i.e., it is not "additional").</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> ADOT 	<p>The first paragraph summarizes parts of Part 4.1 and the second paragraph describes additional site inspection details at sites that discharge to OAWs or streams impaired for sediment, which is not discussed in Part 4.1. ADEQ has not made changes to this section.</p>
Sector L	
<p>Comment 8.L1</p> <p><u>Apply for Closure Certification if have had or have MSGP:</u></p> <p>Sector L Closure Certification. Part 81.11 includes requirements for Sector L Closure Certification for landfills that never received coverage under the 2010 MSGP or the 2019 MSGP to certify</p>	<p>After the issuance of ADEQ's 2010 MSGP, ADEQ worked with the city of Phoenix to develop a process to address historic landfills that were closed and never had industrial stormwater permit coverage. To document the status of these legacy landfills, ADEQ developed the "Sector L Closure Certification" form. This form was provided as an option for customers to complete and submit to ADEQ to document the</p>

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<p>exemption from MSGP coverage. Landfills with prior coverage under MSGP should also be able to certify closure, if appropriate. ADEQ should clarify this section to include closure certification for previously permitted landfills and the requirements to obtain that certification.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>existence of the legacy landfill for both ADEQ and customers.</p> <p>This form is only for those closed landfills that did not have stormwater permit coverage. Facilities that had coverage and then closed, are captured in the normal Notice of Intent / Notice of Termination process, just as any other facility that had permit coverage and either moved or closed.</p> <p>The Sector L Closure Certification form is tied to the landfill and not the ADEQ's permit cycle. Therefore, it does not need to be re-submitted when ADEQ reissues the permit.</p>
<p>Comment 8.L.2</p> <p><u>Resubmission of Closure Certification:</u> Please clarify in the permit if a landfill previously certified as closed under Sector L needs to re-certify under the new permit.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Section 8.L.11 has been modified to include the following language, "<i>Sector L facilities that have previously submitted the Sector L Closure Certification form are not required to re-submit under this permit term.</i>"</p>
Sector P	
<p>Comment 8.P1</p> <p>The requirement to keep an organized inventory of materials is too board.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Pinal County 	<p>ADEQ has clarified language in Part 8.P.3.1.5 to include: "<i>Implement one or more of the following where it is determine to be feasible (or other equivalent measures): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop...</i>"</p>
Sector S	
<p>Comment 8.S1</p> <p><u>Section 8 reference Annual Report</u></p> <p>It mentions "certify annually on the annual report that the permittees do not use pavement deicers containing urea" ...this really does not apply to most airports in the valley due to our climate but this sections mentions "annual report," however, the annual report requirement is removed from 2019 MSGP.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Phoenix-Mesa Gateway Airport 	<p>The annual report requirement is not included in 2019 MSGP. Section 8.S.8.1 has been changed to "<i>keep an up-to-date certification statement in the SWPPP that certifies that the permittee does not use pavement deicers containing urea.</i>"</p> <p>Any changes must also be included in the NOI and the inspection schedule and report.</p>

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Comment	Response
<p>Comment 8.S2</p> <p><u>Copies of NOIs with SWPPP:</u></p> <p>Keep copies of tenants NOIs with Authority SWPPP or have access to NOI upon request?</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ added language to Part 8.S.3.1 to include “The airport authority shall maintain a complete inventory of airport tenants covered by the SWPPP. The inventory may consist of a list or copies of the tenant’s NOIs. In either case, the records shall be easily accessible and made available upon request.”</p>
<p>Comment 8.S3</p> <p><u>Sign and Certify on Airport SWPPP:</u></p> <p>Section 8.S.3.3 and Part 5.2 now requires all operators to sign the SWPPP. Operators who have developed a SWPPP in addition to the City airports' SWPPP will need to be reviewed to confirm that the operator's SWPPP has been coordinated with the City airports' comprehensive SWPPP. Operator should be defined to ensure that this section is not interpreted to mean all co-permittee firms are to sign and certify coordination with the City airports' comprehensive SWPPP. Please consider revising the MSGP to indicate that only co-permittees with a separate SWPPP are required to sign and certify the comprehensive SWPPP.</p> <p>Please consider adding the provision that co-permittees with their own SWPPP can sign a certificate of equivalency (and provide appropriate citation in the permit for certification requirements) rather than the comprehensive SWPPP and can keep the certification with co-permittee records.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>In accordance with 40 CFR 122.41(k), all applications, reports, or information submitted to the Director shall be signed and certified (See 40 CFR 122.22).</p> <p>Added has added clarification language to Part 8.S.3.3 to include:</p> <p><i>A single comprehensive SWPPP must be developed for all stormwater discharges associated with industrial activity at the airport before submittal of any NOIs. The comprehensive SWPPP should be developed collaboratively by the airport authority and tenants. If any operator (co-permittee) develops a separate SWPPP for discharges from its own areas of the airport, that SWPPP must be coordinated and integrated with the comprehensive SWPPP. Permittees under their own SWPPP must sign and certify their own SWPPP. Co-permittees that are under the airport authority SWPPP, shall sign and certify the comprehensive airport authority SWPPP.</i></p> <p><i>All operators and their separate SWPPP contributions and compliance responsibilities must be clearly identified in the comprehensive SWPPP.</i></p> <p>It is the permittee’s responsibility to understand permit conditions and SWPPP responsibilities. If a facility is covered by a “master SWPPP” (i.e., a SWPPP that covers more than one permitted facility), each permittee must certify the SWPPP, or relevant portions thereof.</p>

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Comment	Response
<p>Comment 8.S4</p> <p><u>Inspection Requirements at Airports:</u></p> <p>Sector S is more detailed on inspection requirements, and has retained the requirement for CFIs. Please clarify that the regular quarterly inspection can be used to meet this annual reporting requirement currently required in Part 8.S.6.2 during the deicing period.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ removed the reference to the CFI. One of the quarterly inspections may be used to meet this requirement. Language in Part 8.S.6.2 has been changed to <i>“Using only qualified personnel, conduct one of the quarterly site inspection during periods of actual deicing operations, if possible.”</i></p>
<p>Comment 8.S5</p> <p><u>Alternative to Visual Assessments:</u></p> <p>ADEQ should consider incorporating the "Alternative Industrial Stormwater Visual Assessment Requirements for Sector S" (ADEQ letter October 2011) procedures into the new 2019 MSGP for Sector S.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix • 	<p>ADEQ has added Section 8.S.8, <i>Visual Assessment Alternative for Sector S Facilities</i>, to the permit.</p>
<p>Comment 8.S6</p> <p><u>Records of Co-permittees:</u></p> <p>Comprehensive permit holders could take on extensive risk in attempting to maintain individual records of co-permittees (e.g., Sector S, airports that have many co-permittees). For example, recordkeeping requirements, such as retaining all NOI Authorization Certificates and maintenance records with the SWPPP can be impracticable.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>ADEQ added language to Part 8.S.3.1 to include “The airport authority shall maintain a complete inventory of airport tenants covered by the SWPPP. The inventory may consist of a list or copies of the tenant’s NOIs. In either case, the records shall be easily assessable and made available upon request.”</p>
<p>Comment 8.S7</p> <p><u>Maintenance Records for Numerous Co-permittees:</u></p>	<p>SWPPP Documentation Section (Part 5.6) that reads: Facilities, including those with co-permittees, may retain copies of records and documentation required by this permit electronically or at locations other than with the</p>

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<p>Maintenance records with numerous co-permittees can be burdensome to manage.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>SWPPP, however, the records must be accessible and the SWPPP shall clearly identify where the information is maintained.</p>
<p>Comment 8.S8</p> <p><u>Corrective Action Reporting at Airports with multiple tenants that have NOIs:</u></p> <p>Clarify whether Corrective Action Report (CAR) for sectors with numerous co-permittees can be submitted through the comprehensive permit holder.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Anyone can complete the corrective action report, including a third-party, however, whenever a corrective action report is required, the holder of the NOI must sign and certify the report through myDEQ. Part 8.S.5 has been updated to include this language.</p>
Appendix A	
<p>Comment A.1</p> <p>The definition in Appendix A for Impaired water includes “Other Impaired Waters List” (OIWL), which is an unfamiliar list. When the permit explicitly identifies a separate list from Arizona’s §303(d) list and capitalizes each word, it appears this is a formal list. The meaning of the OIWL is not clear, as it could refer to Category 4 and Category 4A/5 water bodies or Category 3 water.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • Pima County 	<p>ADEQ has revised the definition in Appendix A for impaired to:</p> <p><i>... waters that have been assessed by ADEQ, under the Clean Water Act, as not attaining a water quality standard for at least one designated use, and are listed on Arizona’s current 303(d) List or are identified on Arizona’s 305(b) Category 4 list.</i></p>
Appendix D	
<p>Comment App D.1</p> <p><u>Hardness Dependent Metals:</u></p> <p>We suggest that the tables in the sector specific portion of the Draft Permit reference Appendix D wherever the action levels are denoted as “hardness dependent”. This minor change would clarify whether the permittee is to use receiving water or discharge effluent hardness in calculating the action level.</p> <p><u>Commenters:</u></p> <ul style="list-style-type: none"> • Arizona G&T Cooperative • Nucor Steel 	<p>The hardness dependent metal(s) in sector specific tables references Part 6.2.1. Part 6.2.1 has been updated to include a reference to Appendix D.</p>

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Fact Sheet	
<p>Comment FS.1</p> <p><u>Permit eligibility:</u></p> <p>The fact sheet should be revised to say that only facilities in Appendix C are eligible for coverage. Non-MSGP facilities can continue to discharge stormwater legally without a permit.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Appendix C of the permit identifies, by SIC code, those industrial activities that are specifically mentioned in rule. The Clean Water Act, however, does not limit the types of industrial facilities that are subject to permitting. Section 402(p)(2)(B) is broader and identifies stormwater ... <i>discharges associated with industrial activity</i>.</p> <p>The director retains the authority under 40 CFR 122.26(a)(1)(v) and A.A.C. R-18-9-A902(B)(8)(d) to require permit coverage to achieve the mission of the Clean Water Act. This can be administered on a facility-by-facility basis, or for an industrial sector.</p>
<p>Comment FS.2</p> <p><u>Duplicative Permitting:</u></p> <p>Provide a list of actions and the rationale as to why the same discharge activity would require coverage under two separate permits (i.e., MSGP and the DeMinimis General Permit).</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>Many of Arizona’s AZPDES general permits include “allowable non-stormwater discharges.” In some instances, some facilities may have coverage under more than one AZPDES general permit (e.g., MSGP and DMPG). This scenario is typically more common for municipalities as opposed to industrial facilities.</p> <p>In the event a facility has coverage under a permit that includes “allowable non-stormwater discharges,” there is no requirement to obtain coverage under a separate permit.</p>
<p>Comment FS.3</p> <p><u>Permit Violations:</u></p> <p>Section IV.B is ambiguous as to what constitutes a violation.</p> <p><u>Commenter:</u></p> <ul style="list-style-type: none"> • City of Phoenix 	<p>A.R.S. §49-263.01(A) establishes violations, including for discharging without a permit; failure to monitor, sample or report; and violating a discharge limit specified in a permit.</p> <p>A.R.S. §49-263.01(H) specifies each day the same violation occurs is an additional violation, including schedules for compliance.</p> <p>For example, if a permittee fails to assess control measures in response to an exceedance of an action level, the exceedance itself is not a violation, but the failure to respond to the exceedance within the timeframe specified in the permit is a violation. Each day the permittee fails to respond to the exceedance constitutes an additional violation.</p> <p>Part IV.B of the fact sheet is intended to summarize violations, but does not replace A.R.S, Title 49, Chapter 2, Article 4, or any provision of the Clean Water Act.</p>