

Response to Public Comments

Permit: Arizona Pollutant Discharge Elimination System (AZPDES) De Minimis General Permit (DMGP) 5-year Reissuance

Permit Action: Final issuance and response to comments received on the draft DMGP publicly noticed from February 18, 2026 - March 20, 2026. The following pages contain ADEQ's response to comments received on the first public notice of the draft DMGP.

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Date: May 5, 2026

Summary of changes in the 2026 De Minimis General Permit:

- Direct discharges to Outstanding Arizona Waters are prohibited to be consistent with other Surface Water Protection general permits and be protective of the environment.
- The term "surface water" has been replaced with "Waters of the United States (WOTUS) Protected Surface Water", as referenced in Arizona Administrative Code (A.A.C.) R18-11, Tables B and C.
- References to effluent limitation guidelines (ELGs) have been removed throughout the permit. Discharges to WOTUS Protected Surface Waters are subject to surface water quality standards.
- Clarified that allowable discharges are restricted to Class A+, A, B+, and B reclaimed waters, subject to permit requirements.
- Corrected minor typographical and formatting errors in both the permit and fact sheet to improve readability.

Comments received during the public comment period are summarized below in italics. The comments are followed by ADEQ's response. Comments may have been shortened or paraphrased for presentation in this document; a copy of the unabridged comments is available upon written request from the ADEQ Records Center, recordscenter@azdeq.gov.

Comment 1.a was received from Nancy S. Allen, City of Phoenix

COMMENT NO.1.a

Please add explanation to the Fact Sheet for the removal of ephemerals and canals. Removal of ephemerals and canals creates regulatory uncertainty for permittees and is not consistent with the definition of protected surface water in the A.A.C. ADEQ updates to the eMaps does not change what is defined as a protected surface water in code.

RESPONSE NO. 1.a

No change was made to the DMGP Fact Sheet based on this comment.

In the 2021 DMGP Fact Sheet, ADEQ explained that “ephemeral drainages as well as some rivers, streams, lakes, ponds, and human-created waterbodies, such as canals, will no longer be explicitly protected under the Clean Water Act as they will no longer be considered a WOTUS. Consequently, ADEQ is removing references to ephemeral waters and canals as they are no longer WOTUS.” Federal rules continue to exclude ephemeral waters and canals from Clean Water Act regulation, therefore these waterbodies were not added back into the 2026 DMGP.

Comment 1.b was received from Nancy S. Allen, City of Phoenix

COMMENT NO.1.b

In the proposed 2026 DMGP, the Non-DWS Use Canals and DWS Use Canals have been removed and there is no requirement to report any potable water discharges to these areas. In Part II(A)(9), it is required to request permission from the property owner or facility for discharges to canals. This omission has created a lack of clarity. For example, if there is a potable water discharge, to a Non-DWS Use Canal or DWS Use Canal, is an entity required to report this under the DMGP, or not? The City requests ADEQ clarify reporting requirements, if any, in this scenario.

RESPONSE NO. 1.b

No change was made to the DMGP based on this comment.

There are no changes to Domestic Water Supply (DWS) Use Canals or Non-DWS Use Canals from the 2021 to the 2026 DMGP. The intent of Part II.A.9 is to clarify that the permit does not convey discharge rights on private or public property. It remains the responsibility of the DMGP permittee to obtain any such rights, if applicable.

Comment 1.c was received from Nancy S. Allen, City of Phoenix

COMMENT NO.1.c

The City recommends retaining references specific to non-WOTUS protected surface waters as well as retention of the term “protected” before “surface waters” in instances where it has been removed. The term adopted by ADEQ and used in code is “Protected Surface Waters” and includes WOTUS and non-WOTUS state protected waters. Confusion and uncertainty is created by not using established terminology. A few examples where the incorrect terms appear are:

- Part IV(B)(4)(b)/(h), (B)(7), and (B)(8) – revise the reference in these narrative discharge sections from “surface water” to “protected surface waters”.

- *Part IV(D)(2)(c)(vi) and (D)(2)(d) – revise the reference in these narrative discharge sections from “surface water” to “protected surface waters”.*
- *Appendix D Impaired Waters – revise from “waterbody” to “protected surface water”.*

RESPONSE NO. 1.c

A change was made to the DMGP based on this comment.

ADEQ has updated relevant instances within the 2026 DMGP to indicate “WOTUS Protected Surface Waters.”

Comment 2.a was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 2.a

ADEQ has not provided clear guidance for the permittee to determine the likelihood of a discharge reaching a protected surface water, thereby requiring permit coverage. Part III(B)(10)(I) “Contents of the NOI”, has a proposed revision to change “protected surface water” to “ephemeral” and “perennial or intermittent” in the following sentence: “If the surface water receiving the discharge is an ephemeral water with a risk of reaching a protected surface water through stormwater flows, the name of the closest downstream perennial or intermittent water. The City reiterates our comment that because ADEQ is not providing firm guidance on when this type of indirect discharge requires a permit, the myDEQ NOI submittal should have an option to check or text box to add an explanation that the discharge is being permitted based on the permittee’s self-risk assessment and does not represent a direct discharge into a protected surface water. For the DMGP, this would be required for each discharge location.

RESPONSE NO. 2.a

A change was made to the DMGP based on this comment.

ADEQ has revised the DMGP to include the phrase, “WOTUS Protected Surface Waters” where applicable. This revision affects Part III.B.10.I, removing the reference to “receiving waters” and flow patterns (perennial, intermittent, etc.). Part III.B.10.I now states, “If the discharge is to an ephemeral water with a risk of reaching a WOTUS Protected Surface Water through stormwater flows, the name of the closest downstream Protected Surface Water and the approximate distance from the discharge point to the Protected Surface Water.”

Comment 2.b was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 2.b

The term “surface water” is now incorrect because ADEQ has removed regulation of discharge directly to “ephemerals” from this permit. The term “surface water” is defined in DMGP Section VII(B) as “waters of the state that are also navigable waters”, the correct term for this definition per A.A.C. is “protected surface water”.

RESPONSE NO. 2.b

A change was made to the DMGP based on this comment.

In the 2026 DMGP, the definition of a “surface water” is defined at A.A.C. R18-11-101(41). This citation contains an error, as the correct citation has been updated to A.A.C. R18-11-101(44) which states, "Surface water" means

"WOTUS" as defined in A.R.S. § 49-201(53). In Arizona Revised Statutes (A.R.S.) 49-201(53), "WOTUS" means waters of the state that are also navigable waters as defined by section 502(7). Clean Water Act section 502(7) states: The term "navigable waters" means the waters of the United States, including the territorial seas. ADEQ has updated instances within the DMGP to indicate "WOTUS Protected Surface Waters" where applicable.

Comment 2.c was received from Nancy S. Allen, City of Phoenix

COMMENT NO.2.c

By changing "protected surface water" to "perennial or intermittent water" ADEQ is excluding other protected surface waters. Please change back to "protected surface water".

RESPONSE NO. 2.c

No change was made to the DMGP based on this comment.

Perennial, intermittent, ephemeral or effluent-dependent waters are titles used to identify waters relative to their flow patterns throughout a typical year. Protected Surface Waters include all of those flow patterns, and are identified in A.A.C. R18-11, Tables A, B, and C. To further clarify, ADEQ has revised instances of perennial, intermittent, ephemeral and effluent-dependent waters, as applicable, to include the phrase "WOTUS Protected Surface Waters."

Comment 3.a was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 3.a

In this rulemaking, ADEQ has revised the definitions for Effluent-Dependent Water, Ephemeral Water, Impaired Water, and Intermittent Water. These revisions are not consistent with A.R.S. 49-201 or the A.A.C. Title 18, Chapter 11. In addition, the references to the A.A.C sections for Ephemeral Water, Intermittent Water and Perennial Water are incorrect. The City requests that established definitions be used for these terms as in other AZPDES permits, the A.A.C and the A.R.S. These terms establish conditions for specific protected surface water types or designations, and should not vary between permits, code and statute. Although the definition for Perennial Water was not revised, this definition should also be reviewed for consistency.

The definition for Outstanding Arizona Water (OAW) was changed to remove "WOTUS protected". Please reinsert this text. Per A.R.S. 49-221, ADEQ cannot have an OAW designation for a non-WOTUS protected surface water.

RESPONSE NO. 3.a

A change was made to the DMGP based on this comment.

ADEQ revised the definitions of concern to be consistent with the most current statutes and regulations. Specifically, the definition of an OAW has been revised as follows "'Outstanding Arizona Water" (OAW) means a WOTUS Protected Surface Water designated under A.A.C. R18-11-112 (formerly "Unique Waters")."

Comment 3.b was received from Nancy S. Allen, City of Phoenix

COMMENT NO.3.b

Part III(B)(5) and Part III(B)(10)(k) introduce the terms "receiving waters" and "receiving streams or waterbodies". In the context of this permit, the terms are used to indicate waters that are not protected surface waters. However,

ADEQ has used this term in other permits and may have a different meaning in those permits. Historically, the term “receiving waters” has been synonymous with WOTUS so the use of this term is unnecessarily confusing to permittees. The City suggests that a new term be selected or a clear definition added to the DMGP to indicate how these terms are used.

RESPONSE NO. 3.b

A change was made to the DMGP based on this comment.

ADEQ agrees that the suggestion would provide clarity for permittees who may have coverage under other ADEQ permits. Parts III(B)(5) and III(B)(10)(k) has been revised accordingly, “The latitude and longitude of the point(s) of discharge and the name of the WOTUS Protected Surface Water(s) receiving the discharge;” and “the WOTUS Protected Surface Water(s) that the discharge may reasonably be expected to reach under conditions expected to be present during the discharge;”

Comment 3.c was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 3.c

ADEQ predominantly uses the term Best Management Practices in the DMGP but also uses the term Control Measure in Part IV(D)(2)(c) and Appendix A(7)(d). Please verify these terms for consistency within this permit and as used throughout all AZPDES permits (e.g., Construction General Permit, Multi-Sector General Permit, Municipal Separate Storm Sewer Permit).

RESPONSE NO. 3.c

A change was made to the DMGP based on this comment.

ADEQ replaced the term “control measure” with “best management practice” to improve clarity in Part IV(D)(2)(c) and Appendix A(7)(d) of the permit.

Comment 4.a was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 4.a

Use of the terms Appendix and Tables in the below sections is confusing. Please clarify for each which Appendix is being referred to in addition to the Tables.

- *Appendix A(A)(1) – reference to “Tables B through D”.*
- *Appendix A(A)(3)(b) – reference to “Tables A through B”. In addition, there is no “Table A” in the permit.*

RESPONSE NO. 4.a

A change was made to the DMGP based on this comment.

ADEQ has modified the title of Table 1, in Appendix A, Part A.3 to “Table A” for consistency and clarity.

Comment 4.b was received from Nancy S. Allen, City of Phoenix

COMMENT NO. 4.b

Please consider bookmarking permits for ease of review and implementation of permits.

RESPONSE NO. 4.b

No change was made to the DMGP based on this comment.

ADEQ makes every attempt to ensure the permit document is as user friendly as possible. Our permits are written using Microsoft Word, then converted to an Adobe PDF. In the word version, the “navigation pane” and the “table of contents” are linked and may be used for navigating through the permit.

Comment 5 was received from Megan Sheldon, City of Glendale

COMMENT NO. 5

The cover page of the permit clearly indicates “discharges to protected surface waters,” but several sections of the permit reference “surface waters” or “receiving water.” What is ADEQ’s reasoning for using different terms? Examples include but are not limited to: Part III.B.10.k, Part IV.B.7, Part IV.B.8, Part IV.D.2.c.ii, and Appendix A – A.1.

RESPONSE NO. 5

A change was made to the DMGP based on this comment.

ADEQ has several regulatory programs for water: drinking water, groundwater, and surface water. In all cases, the location of where a discharge (de minimis, stormwater, end of pipe) enters any waterbody is typically referred to as the “receiving water.” In some cases, the receiving water is also called perennial, intermittent, or ephemeral, based on the water's flow pattern. Surface waters that are listed in A.A.C. R-18-11 Tables A-C are “Protected Surface Waters.” ADEQ has reviewed and replaced the term “surface water(s)” with “WOTUS Protected Surface Waters,” when identifying the regulated receiving water.

Comment 6 was received from Megan Sheldon, City of Glendale

COMMENT NO. 6

The term “ephemeral water” has been removed from several sections of the permit such as I.B.5 and Appendix A’s Table 1. In addition, Table A from the 2021 DMGP was not carried over into the draft 2026 permit. Is it ADEQ’s intent that dischargers to ephemeral waters do not need to obtain coverage under the 2026 DMGP? If so, Part III.B.10.l should be updated.

RESPONSE NO. 6

No change was made to the DMGP based on this comment.

The word "ephemeral" has not been removed from the 2026 DMGP and Appendix A’s Table 1, now renamed Table A for consistency. Table A is located in Appendix A, Part A.3. Similarly, tables in Appendices B-D have been renamed to Table B, Table C, and Table D, respectively.

While ephemeral waters are not currently regulated under the Clean Water Act, they may be protected under Arizona's Protected Surface Water Program (A.A.C. R18-11, Tables A-C). Applicants should review these tables to determine if their discharge requires coverage under the DMGP.

Comment 7 was received from Megan Sheldon, City of Glendale

COMMENT NO. 7

Part IV.B.3 of the permit uses the phrase "cause or contribute to a violation of any applicable surface water quality standard (SWQS)..." In light of the March 2025 Supreme Court ruling in City and County of San Francisco v EPA, will this language change?

RESPONSE NO. 7

No change was made to the DMGP based on this comment.

The language identified in Part IV.B.3 relates to specific, numeric surface water quality standards outlined under A.A.C. R18-11-109, 110, and Appendix A. The permit language does not condition compliance on overall receiving water quality, which was the central issue considered by the United States Supreme Court in City and County of San Francisco v. Environmental Protection Agency, 145 S. Ct. 704 (2025).

Comment 8 was received from Megan Sheldon, City of Glendale

COMMENT NO. 8

Part I.C.4. indicates the permit does not authorize "discharges of reclaimed water from impoundments or water features, except for discharges necessary for maintenance or repair (subject to specific approval under Part I.B.7)." This seems to conflict with Part I.B.5 which allows for occasional short-term discharges of Class A+, A, B+, or B reclaimed water if a specific approval is received under Part I.B.7. These permit conditions are also inconsistent with Part I.C.8 which states the permit does not authorize "discharges of reclaimed water other than Class A+, A, B+, or B" – so Class A+, A, B+ and C can be discharged as long as the discharge is not to an Outstanding Arizona Water and waters with the Domestic Water Supply designated use? Please clarify what reclaimed water discharges, if any, are covered under the 2026 permit: class of reclaimed water, designated use of the protected surface water(s) receiving the discharge, which activities (post-repair flushing, pressure releases, pipeline leaks/breaks, from impoundments or water features at any time or only for maintenance or repair), etc.

RESPONSE NO. 8

A change was made to the DMGP based on this comment.

The intention of Part I.C.4 is that an "impoundment or water feature" that is manmade and created using reclaimed water is not authorized to discharge except for necessary maintenance or repair. References to reclaimed waters throughout the permit have been reviewed and only discharges of Classes A+, A, B+, or B reclaimed waters are authorized under this permit.

Comment 9 was received from Megan Sheldon, City of Glendale

COMMENT NO. 9

Part II.A:

- *It would be helpful to have subheadings or re-format this section so permittees easily see: 1, 2, and 3 apply to all NOIs; 4 and 5 are related to single-source discharges; 6 is for area-wide coverage; 7 is for project-wide coverage and 8 is for facility-wide coverage.*
- *Part II.A.8: Correct typographical errors (“seeing” should be “seeking”; delete “which” from the last sentence).*
- *Part II.A.9 shouldn’t be located under Application for Coverage and Timing of Authorizations. Recommend moving this text to the Applicability section (Part I.A) or directly beneath the heading for Part II.*
- *Part II.A.3 and Part II.A.11 appear to contain duplicate language.*

RESPONSE NO. 9

A change was made to the DMGP based on this comment.

ADEQ has reviewed the proposed changes and is in agreement with the recommendations. The specific types of discharge within Part II.A have been bolded for better clarity and readability. We corrected several typographical errors throughout the document. Additionally, we moved the language previously found in Part II.A.9 to the opening paragraph of Part II.A and have removed Part II.A.11 in its entirety.

Comment 10 was received from Megan Sheldon, City of Glendale

COMMENT NO. 10

Part III.A.1.c states “if any conditions of Part II.D of this permit are met, the permittee shall submit a NOT on or before July 30, 2026.” Wouldn’t the NOT be submitted if conditions in the 2021 DMGP are met, not “Part II.D of this permit”?

RESPONSE NO. 10

No change was made to the DMGP based on this comment.

According to Part III.A.1 and Subpart C of the permit, if any conditions in Part II.D are met, the permittee must submit a Notice of Termination (NOT) on or before July 30, 2026. This date marks the end of the reissuance grace period for actions related to the 2021 DMGP. Part II.D outlines the process for obtaining coverage under the 2026 DMGP and provides instructions on terminating existing coverage to transition to the new permit.

Comment 11 was received from Megan Sheldon, City of Glendale

COMMENT NO. 11

Part IV.B.5: How does the permittee determine if the discharge “causes degradation of the surface water quality”? Are the conditions for degradation specified in Part IV.B.4?

RESPONSE NO. 11

No change was made to the DMGP based on this comment.

The discharges identified in Part IV.B.4 are codified in the Arizona Administrative Code (A.A.C.) R18-11-108(A), Narrative Water Quality Criteria. All Arizona Pollutant Discharge Elimination Systems (AZPDES) permitting is subject to these criteria. In Part IV.B.5, “discharges that may cause degradation of the surface water quality or

cause impairments to designated uses” are regulated in A.A.C. R18-11-107, Antidegradation. Information on impaired or not-attaining waters and their designated uses is available on the ADEQ website and permittees are encouraged to email ADEQ at AZPDES@azdeq.gov, if they have any questions or concerns regarding discharging to impaired and not-attaining waters.

Comment 12 was received from Megan Sheldon, City of Glendale

COMMENT NO. 12

Part IV.D.2.c.iv: The text below the second bullet point (“If chemical dichlorination is used”) should be shown as two sub-bullets.

RESPONSE NO. 12

No change was made to the DMGP based on this comment.

After review, ADEQ maintains that the existing language in Part IV.D.2.c.iv is sufficiently clear to DMGP permittees.

Comment 13 was received from Megan Sheldon, City of Glendale

COMMENT NO. 13

Part IV.D.6: Please add “BMPP” before “modification” so the permit condition states “...The notification will identify the provisions of this permit that are not being met and that require BMPP modification.”

RESPONSE NO. 13

A change was made to the DMGP based on this comment.

ADEQ agrees that the inclusion of Best Management Practices Plan (BMPP) provides clarity, Part IV.D.6 of the permit has been modified accordingly.

Comment 14 was received from Megan Sheldon, City of Glendale

COMMENT NO. 14

Part VII.B Definitions:

- *The definition of “discharge” was removed and should be reinstated.*
- *In the definition for effluent-dependent water, the word “treated” should precede “wastewater.”*

RESPONSE NO. 14

No change was made to the DMGP based on this comment.

The definition of a discharge point states “the point where a discharge enters a Protected Surface Water.” This is consistent with the 2021 DMGP. While effluent dependent waters are considered wastewaters, they are not always treated thus we have not included the requested word.

Comment 15 was received from Megan Sheldon, City of Glendale

COMMENT NO. 15

Part VII.B Definitions: Please verify the citation for the definition of “surface water.” I could not compare the definition of “surface water” to the definition of “protected surface water.”

RESPONSE NO. 15

No change was made to the DMGP based on this comment.

Part VII.B Definitions and citations:

- A.A.C. R18-11-101(44) states a “surface water” means “WOTUS” as defined in A.R.S. §49-201(53).
- A.R.S. §49-201(53) states, ““WOTUS” means waters of the state that are also navigable waters as defined by section 502(7) of the clean water act.” For reference, Clean Water Act Section 502(7) states, ““navigable waters” means the waters of the United States, including the territorial seas.”
- A.R.S. §49-221(G) states “the director shall maintain and publish a protected surface waters list” which contains all WOTUS, perennial, intermittent and ephemeral reaches and any impoundments of, ... the Bill Williams river; the Colorado river; the Gila river; the Little Colorado river; the Salt river; the San Pedro river; the Santa Cruz river; and the Verde river.

For further clarification regarding our terminology, ADEQ reviewed all instances where "surface water" and "WOTUS Protected Surface Water" are referenced within the 2026 DMGP. The phrase "surface water" is used specifically in conjunction with quality standards, referring to surface water quality standards. In contrast, "WOTUS Protected Surface Water" is used to indicate the specific waterbody receiving a discharge.

Comment 16 was received from Megan Sheldon, City of Glendale

COMMENT NO. 16

Appendix A, Part A: Recommend changing “Tables B through D” to “Appendices B through D.”

RESPONSE NO. 16

No change was made to the DMGP based on this comment.

ADEQ modified the 2026 DMGP to include Appendices A - D, with corresponding tables for clarity.

Comment 17 was received from Megan Sheldon, City of Glendale

COMMENT NO. 17

Appendices B through D: The discharge limitations tables should specify the limits for pH are “less than 6.5 or greater than 9.0 standard units” or similar language.

RESPONSE NO. 17

No change was made to the DMGP based on this comment.

To clarify, the established pH limits in the DMGP are set between 6.5 and 9.0 standard units. Because any measurements outside of this range (lower than 6.5 or greater than 9.0) represent exceedances, no revisions were made to the permit.

Comment 18 was received from Megan Sheldon, City of Glendale

COMMENT NO. 18

Appendix C: The reference to Domestic Water Supply was removed from the appendix's introduction but the designated use is included in the Discharge Limitations table for nitrate/nitrite. Should this be removed from the table?

Appendix D: Rename as "Impaired Waters Discharges" to be consistent with the naming convention used for the other appendices. Also, label the monitoring requirements similar to the monitoring requirements tables in the other appendices.

RESPONSE NO. 18

No change was made to the DMGP based on this comment.

The DMGP tables were renamed to be consistent with the associated Discharge Limitations and Monitoring Requirements in each appendices. No specific data or requirements were changed from the 2021 DMGP into the current DMGP and all parameter values are based on surface water quality standards

Comment 19 was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 19

Prohibition on discharges to OAWs: Part I.C.1 of the proposed permit would prohibit authorization of discharges "to" outstanding Arizona waters ("OAWs") identified by rule at A.A.C. R18-11-112(G)). According to the proposed Fact Sheet, the basis for this proposal is that OAWs are classified as Tier 3 waters for antidegradation purposes. The antidegradation rule cited by ADEQ prohibits new or expanded discharges "directly to" an OAW. See A.A.C. R18-11-107.01(C)(2).

RESPONSE NO. 19

A change was made to the DMGP based on this comment.

ADEQ revised Parts I.C.1 and I.C.8 of the permit to include the word "direct" to improve clarity. Part I.C.1 now states, "Direct discharges to Outstanding Arizona Waters" and Part I.C.8 has been revised as follows, "Direct discharges of reclaimed water other than Class A+, A, B+, or B and discharges of any class of reclaimed water to OAWs and waters with the DWS designated use."

Comment 20 was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 20

Part I.B.6: The revised language in the first sentence of Part I.B.6 is confusing. The first sentence of that section in the current permit is more clear and understandable. Given that there does not appear to be any intent to substantively change the meaning of the sentence, the AMA recommends that the existing language be retained.

RESPONSE NO. 20

A change was made to the DMGP based on this comment.

ADEQ agrees and has revised the opening sentence of Part I.B.6 of the permit to improve clarity. Part I.B.6 now states, “Discharges from the following sources, provided the site of the activity is not within 0.25 miles upstream of a Protected Surface Water that is perennial or intermittent, or an Outstanding Arizona Water (OAW), and all discharges are minimized to the maximum extent practicable.”

Comment 21 was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 21

Identifying permit provisions applicable only to discharges to WOTUS: The de minimis permit applies to discharges to all protected surface waters, both WOTUS and non-WOTUS. However, unlike ADEQ’s other AZPDES general permits (mining MSGP, non-mining MSGP, construction), the proposed de minimis general permit does not identify those provisions that apply only to WOTUS. This has the potential to create confusion.

RESPONSE NO. 21

A change was made to the DMGP based on this comment.

ADEQ revised the phrase “surface waters” throughout the DMGP to “WOTUS Protected Surface Waters.” A.A.C. R18-11 provides Tables A, B and C, identifying the waters on the Protected Surface Waters List; Table A identifies non-WOTUS Protected Surface Waters while Tables B and C identify WOTUS Protected Surface Waters.

Comment 21.a was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 21.a

ADEQ has proposed to not include on page 1 language found in the existing de minimis permit, as well as ADEQ’s other recently reissued general AZPDES permits, stating that requirements for discharges to non-WOTUS protected surface waters are adopted solely pursuant to A.R.S. § 49-255.04, and are enforceable solely by ADEQ. It is not clear why this language has been deleted, and it should be reinstated in any final permit.

RESPONSE NO. 21.a

A change was made to the DMGP based on this comment.

ADEQ agrees and has revised this language to include non-WOTUS Protected Surface Waters pursuant to A.R.S. § 49-255.04. As the 2021 DMGP was issued prior to the implementation of the Protected Surface Waters Program, this permit renewal is the first opportunity for ADEQ to align the DMGP with the current state regulatory requirements.

Comment 21.b was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 21.b

Part I.C.10 (Limitations on Coverage) states that the permit does not authorize discharges from any source for which effluent limitation guidelines (“ELGs”) have been adopted pursuant to Section 304(b) of the Clean Water Act. However, pursuant to A.R.S. § 49-255.04(B)(2), ADEQ cannot apply ELGs adopted pursuant to Section 304(b) in AZPDES permits for discharges to non-WOTUS protected surface waters, except in the case of discharges from publicly owned treatment works (“POTWs”). The de minimis permit therefore should clarify that the limitation in

Part I.C.10 applies only to sources discharging to WOTUS (or POTWs discharging to non-WOTUS protected surface waters).

RESPONSE NO. 21b

A change was made to the DMGP based on this comment.

After reviewing discharge limitations in Appendices B-D, ADEQ determined that these values are not Effluent Limitation Guidelines (ELGs), but correspond with the current surface water quality standards in A.A.C. R18-11. Accordingly, Part I.C.10 and any other references to ELGs have been removed from this permit.

Comment #21.c was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 21.c

Third, Part I.C.11 (Limitations on Coverage) states that the de minimis permit does not cover discharges required to be authorized under a municipal or industrial stormwater permit issued per CWA Section 402(p). Because the CWA regulates only WOTUS, a permit under Section 402(p) of the CWA is required only for discharges to WOTUS. Therefore, the limitation in Part I.C.11 should be modified to encompass discharges “to WOTUS” that require a permit pursuant to CWA Section 402(p).

RESPONSE NO. 21.c

A change was made to the DMGP based on this comment.

ADEQ revised Part I.C.11 to include the phrase, “Discharges to WOTUS Protected Surface Waters.”

Comment 21.d was received from Steve Trussell, Arizona Mining Association

COMMENT NO. 21.d

The AMA respectfully requests that the permit be modified to reflect the above comments and then re-noticed for another round of comments, primarily so stakeholders can comment on ADEQ’s identification of provisions that apply only to discharges to WOTUS.

RESPONSE NO. 21.d

After a thorough review of the permit documents and the comments provided in response to the initial comment period from February 18, 2026 - March 20, 2026, ADEQ determined that there were significant changes to be incorporated into the DMGP and extended the reissuance for 90 days. Updated documents were published and an additional 30 day comment period was provided from June 26 - July 27, 2026. Please see the second response document dated September 1, 2026.