



Arizona Pollution Discharge Elimination System

(AZPDES)

Small Municipal Separate Storm Sewer System

(MS4)

2021 Fact Sheet for AZG2021-002

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INTRODUCTION:

1. Permit Modification September 29, 2021

ADEQ modified the July 2020 CGP to implement the State's new Surface Water Protection Program (SWPP) in accordance with A.R.S. Title 49 Chapter 2, Article 3.1. Certain definitions have been updated or introduced to reflect the change. Notably, the terms Protected Surface Water, WOTUS and non-WOTUS protected surface waters are used throughout the permit. Protected Surface Waters means waters of the State listed on the protected surface water list under Section A.R.S. §49-221, Subsection G and all Waters of the United States (WOTUS). WOTUS means a protected surface water that are also navigable waters as defined by Section 502(7) of the Clean Water Act and are federally regulated. Non-WOTUS protected surface water means a protected surface water that is not a WOTUS, and is regulated solely by the State.

For discharges to a WOTUS, any permit noncompliance constitutes a violation of the Clean Water Act; A.R.S. Title 49, Chapter 2, Article 3.1; and A.A.C. Title 18, Chapter 9, Article 9, and is grounds for enforcement action, termination or modification of permit coverage, or denial of a permit renewal application. For discharges to non-WOTUS protected surface waters, any permit non-compliance is enforceable solely by the Arizona Department of Environmental Quality (ADEQ) pursuant to A.R.S. Title 49, Chapter 2, Article 4. The conditions of this permit that regulate discharges to non-WOTUS protected surface waters do not constitute effluent standards or limitations under 33 U.S.C. § 1365.

On August 30, 2021, a District Judge for the District of Arizona issued an order on vacating and remanding the Navigable Waters Protection Rule (NWPR). The order will have the effect of setting Clean Water Act (CWA) regulations in Arizona to those in place prior to the 2015 WOTUS rule revision.

2. Permit Modification September 16, 2022

On November 1, 2021, three (3) Phase II MS4 permittees submitted a Notice of Appeal of the permit issued on September 30, 2021.

After informal settlement discussions, all issues were resolved to the satisfaction of all parties and the modified permit was published in the Arizona Administrative Record on June 24, 2022, allowing the general public an opportunity to provide comments for 30 days. Changes were made to public outreach and education to reduce redundancy and improve clarity; IDDE screening to clarify options for dry and wet weather screening; construction inspection frequency to add options and; monitoring to give more time and; reduce record keeping requirements. All comments were responded to, in a Response to Comments document, available on the ADEQ website.

This modification was signed on September 16, 2022.

3. Proposed Action

The Arizona Department of Environmental Quality (ADEQ) is reissuing the Arizona Pollutant Discharge Elimination System (AZPDES) general permit for the discharge of stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) to protected surface waters.

- In preparing the permit, ADEQ held a series of stakeholder meetings with interested parties during the period September 2020 – February 2021.
- In March 2021, an informal draft was presented to the existing small MS4 permittees for informal review and comment period.
- In June 2021, the final draft was published in the A.A.R. for official public comment for 45 days.
- The permit was issued and became effective on September 30, 2021.

4. Program Background

The conditions in this permit are established pursuant to Arizona Administrative Code (A.A.C.), Title 18, Chapter 9, Article 9, C901 and C903, the Department is reissuing a general permit under the Arizona Pollutant Discharge Elimination System (AZPDES), authorizing discharges of pollutants associated with municipal stormwater to the Arizona Protected Surface Waters List, which includes waters of the U.S., pursuant to the federal Clean Water Act and recent amendments to Arizona Revised Statutes title 49-201 *et seq.* that establish a state water protection program. This general permit, AZG2021-002, replaces permit AZG2016-002.

Part 6.0 of the 2021 permit sets forth the requirements for the MS4 to “reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as appropriate for the control of such pollutants.” (See Section 402(p)(3)(B)(iii) of the CWA.)

ADEQ believes implementation of best management practices (BMPs) designed to control storm water runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the federal standard of MEP. Pursuant to 40 CFR §122.44(k), the permit contains best management practices (BMPs), including development and implementation of a comprehensive stormwater management program (SWMP) as the mechanism to achieve the required pollutant reductions.

ADEQ’s 2016 Small MS4 general permit required small MS4s to develop and implement stormwater management programs (SWMP) designed to control pollutants to the MEP and protect water quality. This 2021 general permit builds on the requirements of the previous general permit.

5. General Permit Authority

Section 301(a) of the Act, 33 U.S.C. §1311(a), and Arizona Revised Statute (A.R.S.) §49-255.01 prohibits the discharge of pollutants into protected surface waters, except in compliance with certain sections of the CWA including, among others, Section 402, 33 U.S.C. §1342. Section 402 of the Act provides the Administrator (ADEQ) may issue NPDES permits for discharges of any pollutant into protected surface waters according to such specific terms and conditions as the Administrator may require. Although such permits are generally issued to individual discharges, ADEQ’s regulations authorize the issuance of "general permits" to cover one (1) or more categories or subcategories of discharges, including stormwater point source discharges, within a geographic area (see 40 CFR §122.28(a)(1) and (2)(i)). Violations of a general permit condition constitute a violation of the CWA and may subject the discharger to the enforcement remedies provided in both State and Federal law, including injunctive relief and penalties.

6. Changes in the 2021 Permit

The table below identifies areas of the 2021 permit that have been changed:

| Permit Section | 2016 Permit | 2021 Permit | Reason for Change |
|---------------------------|--|--|---|
| Eligibility | The amount of time allotted to complete permit requirements varied and were scattered throughout the permit. | For all requirements, existing permittees have one (1) year from the effective date of the permit to update their SWMP to meet the 2021 requirements; New permittees have two (2) years after obtaining permit coverage to implement a SWMP to meet the 2021 requirements. | This change is meant to provide consistency and clarity on the amount of time a permittee has to complete a permit requirement, to be in compliance with the 2021 permit. |
| Non-Stormwater discharges | Section 1.3 in the 2016 permit | Moved in its entirety to IDDE Section 6.3 | Non-Stormwater discharges are part of the IDDE Program and this section is being moved to keep IDDE requirements in the same permit section. |

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| <p>Limitations of Coverage</p> | <p>Discharges to impaired waters and OAWs</p> | <p>Added not-attaining waters throughout the permit</p> | <p>ADEQ added not-attaining waters to this permit to ensure that permittees are aware that not-attaining waters is a category of impaired waters and analytical monitoring of stormwater discharges to not-attaining waters may be required.</p> |
| <p>Notice of Intent (see Table B2.1 for a description of the difference between a Two-Step and Comprehensive Type permits)</p> | <p>The 2016 permit was written as a <u>Two-Step Permit</u>, meaning that permittees had to explain, in detail, what BMPs they would be using for each of the (6) MCMs. ADEQ had to review the NOI, then publicly notice the NOI for a 30-day comment period, address any comments, before issuing the NOI.</p> | <p>The 2021 permit is written as a <u>Comprehensive Type Permit</u> and only requires basic information in the NOI. The permittee signs the NOI, agreeing to complete the requirements in the permit. The steps of ADEQ approval and public notice are no longer necessary and the NOI is approved upon receipt.</p> | <p>ADEQ held multiple outreach events to stakeholders discussing the differences in the reporting between the two permit types. Overall, MS4s agreed that the NOI associated with a Comprehensive Type Permit would be easier to complete, and less time consuming to the MS4 and to ADEQ.</p> |
| <p>Storm Sewer Mapping</p> | <p>Section 4.0 in the 2016 permit</p> | <p>Moved in its entirety to IDDE Section 6.3</p> | <p>Storm Sewer Mapping is a key requirement in IDDE and this section is being moved to keep all IDDE requirements in one location in the permit</p> |
| <p>Minimum Control Measures</p> | <p>Requirements are incorporated in Section 6</p> | <p>Created a specific section (section 6) for MCMs</p> | <p>Created separate section for the six (6) MCMs to provide clarity and consistency</p> |
| <p>MCM 1 Public Education and Outreach</p> | <p>The 2016 permit provided text of permit requirements</p> | <p>The 2021 permit provides actual target groups and topics that meet the permit requirements</p> | <p>This approach has been used in the AZPDES Individual MS4 permits and was included for consistency</p> |

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| MCM 2 Public Participation and Involvement | The permit language encouraged permittees to post their SWMP on their website | This permit language requires permittees to post their SWMP and annual report on their website | Public participation in the creation, review, and modification of the SWMP is key to having a successful stormwater program |
| MCM 3 IDDE | The 2016 permit included the identification of at least (5) representative outfalls for wet weather visual monitoring. Data from this monitoring was submitted with the annual report in a DMR. | The visual monitoring reporting requirement was removed from the 2021 permit. Analytical monitoring may be required for discharges to impaired, not-attaining or outstanding AZ waters. | ADEQ determined that the data received in the DMR from wet weather visual monitoring was not useful in determining if pollutants were being discharged along with stormwater. |
| MCM 3 IDDE | The 2016 permit suggested that all outfalls should be inspected during the permit term to identify and eliminate any dry weather discharges | In the 2021 permit, the requirement has been changed to inspect at least 20% of all outfalls each year of the permit term, identifying wet and dry weather illicit discharges | This change is due, in part, to the removal of wet weather visual monitoring. The focus is on inspecting outfalls and identifying illicit discharges, wet or dry weather. |
| MCM 3 IDDE | In the 2016 permit, the permittee was required to submit a list of “non-filers” in the annual report | The 2021 permit requires permittees to send an email to ADEQ when a “non-filer” is identified. | This change will enable ADEQ to provide outreach and permit assistance to “non-filers” as they are identified throughout the year. |
| Section 7 Characterization Monitoring | N/A | Characterization Monitoring for Priority Pollutants as defined by the EPA are included in this permit with reporting to ADEQ by the end of the 2 nd permit year (September 2023). | The addition of analytical monitoring of Priority Pollutants to the small MS4 permit will allow ADEQ to establish a baseline of pollutants conveyed in stormwater across the state. |
| Section 7 Analytical Monitoring | In the 2016 permit, data from analytical monitoring of discharges to | In the 2021 permit, data from analytical monitoring should be submitted in a timely | Receiving data for discharges to impaired/not-attaining and OAWs in a timely |

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| | impaired, or OAWs were submitted on a DMR with the annual report. | manner (30 days) after the MS4 receives the data from a lab (or collects the data in stream). | manner will allow ADEQ to evaluate any exceedances and work with the permittee to eliminate pollutants discharging from the MS4 |
| Annual Report | The 2016 permit was written as a <u>Two-Step Permit</u> , meaning that in the annual report, permittees had to explain, in detail, how they met the requirements using the BMPs they had previously identified in the NOI. | The 2021 permit is written as a <u>Comprehensive Type Permit</u> and only requires basic information in the Annual Report. There are fewer questions in this annual report with Yes or No answers, instead of long, freeform text. | ADEQ held multiple outreach events to stakeholders discussing the differences in the reporting between the two permit types. Overall, MS4s agreed that the annual report associated with a Comprehensive Type Permit would be easier to complete, and less time consuming to the MS4 and to ADEQ. |

7. NPDES Electronic Reporting Rule

EPA published the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule ("NPDES eRule") on October 22, 2015. This rule is modernizing the Clean Water Act (CWA) reporting for municipalities, industries and other facilities. The rule replaces most paper-based NPDES reporting requirements with electronic reporting.

Specifically, the rule requires regulated entities to report information electronically, instead of filing written paper reports. These reports include:

- Discharge Monitoring Reports (DMRs)
- Notices of Intent to discharge in compliance with a general permit
- Other specified program reports.

The rule also requires states and other regulatory authorities to share data electronically with EPA. The data that these regulatory authorities will share with EPA includes permit, compliance monitoring (e.g., inspection), violation determination, and enforcement action data.

The rule also requires the U.S. EPA to assess the progress each authorized state is making in implementing NPDES electronic reporting and to repeat these assessments annually.

UPDATE: On November 2, 2020, EPA published the NPDES eRule Phase 2 Extension final rule which provides states and EPA additional time to implement electronic reporting for certain Clean Water Act discharge permitting requirements. In this final rule, EPA extended the compliance deadline for implementation of Phase 2 of the eRule by five years, from December 21, 2020 to December 21, 2025.

1.0 COVERAGE UNDER THIS GENERAL PERMIT

1.1 Permit Area (40 CFR 122.28(a)(1))

This permit is available to eligible MS4 operators seeking authorization to discharge stormwater and allowable non-stormwater from small MS4s.

A MS4 is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- a. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges to protected surface waters;
- b. Designed or used for collecting or conveying stormwater;
- c. Which is not a combined sewer; and
- d. Which is not part of a Publicly Owned Treatment Works.

This term includes systems similar to separate storm sewer systems in municipalities, such as military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in discrete areas, such as individual buildings.

Regulated Small MS4s

This general permit is issued to provide coverage for existing and new MS4s. Existing MS4s (those that obtained coverage under Arizona's small MS4 general permit, AZG2021-001) include:

| | | |
|------------------------|--------------------------|--------------------------|
| Apache Junction | Arizona State University | Avondale |
| Buckeye | Camp Verde | Carefree |
| Casa Grande | Cave Creek | Chandler |
| Cochise County | Coconino County | Cottonwood |
| Davis Monthan AFB | Douglas | El Mirage |
| Flagstaff | Fountain Hills | Gilbert |
| Goodyear | Guadalupe | Lake Havasu City |
| Litchfield Park | Luke ARB | Marana |
| Maricopa County | Mohave County | Nogales |
| Northern Arizona Univ. | Oro Valley | Paradise Valley |
| Peoria | Pinal County | Prescott |
| Prescott Valley | Queen Creek | Sedona |
| Sierra Vista | South Tucson | Surprise |
| University of Arizona | Veteran's Hospital – Phx | Veteran's Hospital – Tuc |
| Yavapai County | Youngtown | Yuma |
| Yuma County | | |

Additional MS4s may be subject to coverage under this permit based on a more recent census, as determined by the U.S. Census Bureau, or be designated a regulated MS4 by the director of ADEQ pursuant to A.A.C. R18-9-A902(D).

1.2 Eligibility (40 CFR 122.32)

This permit authorizes municipal stormwater discharges from small MS4s, when in compliance with permit conditions, except those excluded under Limitations on Coverage of the permit. Coverage under this permit is authorized for municipal stormwater discharges from the permitted area.

In order to reduce redundancy and avoid inconsistent timeframe requirements in various sections of this permit, Part 1.2 introduces two timeframe requirements that are applicable to all permitting requirements for this permitting cycle (2021 – 2026):

1. Existing permittees shall implement all requirements of this permit within one (1) year of the effective date of the permit.
2. New permittees shall implement all requirements of this permit within two (2) years of obtaining permit coverage. During the first two permit years, new permittees may request, in writing to ADEQ, a one-time extension of one (1)

additional year to complete a specific permit requirement. Requests should be emailed to AZPDES@azdeq.gov.

1.3 Limitations of Coverage

This general permit does not authorize:

- a. Discharges Mixed with Non-Stormwater. Stormwater discharges that are mixed with non-stormwater sources, other than those identified in, and in compliance with, the permit are prohibited. Non-stormwater discharges that are authorized under a different NPDES/AZPDES permit may be co-mingled with discharges authorized under this permit.
- b. Discharges Covered by Another Permit. Stormwater discharges associated with construction activity, industrial activity or that are covered under an individual permit or discharges required to be covered under an alternative general permit are prohibited.
- c. Discharging into Impaired Waters, Not-attaining Waters or Outstanding Arizona Waters (OAWs): The permittee shall include provisions in the SWMP that are consistent with the assumptions and requirements of the total maximum daily load (TMDL) and are protective of water quality. In cases where a TMDL has not been established for a 303(d) listed water that receives municipal stormwater, the permittee must address control of pollutants of concern such as oil, grease, sediment, pesticides and metals, and any other contaminants known to be common in municipal stormwater runoff. Visit ADEQ's website for current listings of impaired and not-attaining waters or OAWs at www.azdeq.gov.
- d. Discharges Causing Degradation. Discharges must be consistent with Arizona's anti-degradation policy. This policy addresses the degradation of waters that occurs due to a discharge. In the future, determination of consistency with this policy may involve ambient water monitoring or discharge monitoring.

1.4 Permit Compliance (40 CFR 122.36)

Non-compliance with any requirement of this permit constitutes a violation of the permit and may result in an enforcement action, including injunctive relief and/or penalties under state and federal laws. For provisions specifying a timeframe to remedy noncompliance, the initial failure constitutes a violation of the permit and the CWA; and subsequent failure to remedy such deficiencies within the specified timeframe, constitutes an independent and additional violation of the CWA.

2.0 AUTHORIZATION TO DISCHARGE

In order for a small MS4 to retain authorization to discharge, the operator must submit a complete and accurate Notice of Intent (NOI) containing the information specified in the permit and the ADEQ issued NOI form. The NOI must be signed in accordance with the requirements of Part 9.9 of the permit's standard conditions, and submitted to ADEQ with 60 days from the permit effective date.

Regulated Small MS4 operators who do not submit a complete NOI within 60 days of the effective date of the permit do not have coverage. Any stormwater discharge until the NOI is submitted and authorization is issued by ADEQ is a violation of A.R.S. 49-255.01.

2.1 Notice of Intent

The Notice of Intent (NOI) in the draft permit reads, in its entirety, as follows:

1. A person seeking authorization to discharge under this general permit shall submit to the department a complete and accurate Notice of Intent (NOI) on a form provided by the department and includes, at a minimum, the following information:
 - a. Name of MS4;
 - b. Operator name and title;
 - c. Mailing address;
 - d. Annual fee billing information;
 - e. Contact person;
 - f. Contact information;
 - g. Estimated population of regulated area (based on most recent decennial census by the Bureau of Census);
 - h. Receiving water(s);
 - i. The number of outfalls that discharge to a receiving water; and
 - j. Outfall name or identification, for outfalls required in "i," above.

For this 2021 permit, ADEQ proposed a comprehensive type permit, necessitating a change in the NOI. The table below explains the differences between the two permit types:

Table 2.1 Comprehensive Permit Type vs. Two Step Permit Type

| Comprehensive General Permit | Two-Step General Permit |
|--|---|
| All requirements must be identified in the permit | Some requirements are established during a second permitting step |
| NOI –only basic information required | NOI –more detailed information required in order to provide the basis for the additional requirements |
| Authorization process –simple (ensure eligibility and completeness of info in NOI) | <p>Authorization process –requires second step after each MS4 submits NOI:</p> <ol style="list-style-type: none"> 1. Review of NOI information 2. Propose additional permit conditions based on NOI information –public notice, 30-day comment period, opportunity to request public hearing 3. Respond to significant comments received 4. Authorize MS4 subject to the additional requirements 5. Authorization requirements should be spelled out in permit |

2.2 Permit Fees

Small MS4 permittees are subject to initial and annual fees pursuant to Arizona Administrative Code, Title 18, Chapter 14, Article 1. Permittees must submit their appropriate fee (based on population of permitted area) with their NOI pursuant to A.A.C. R18-14-109.

2.3 Terminating Coverage

The operator of a small MS4 covered by this general permit may submit a Notice of Termination (NOT) to terminate permit coverage if there are no longer discharges to protected surface waters. If the operator fails to obtain coverage under an alternative permit issued by ADEQ or U.S. EPA for municipal stormwater discharges, the operator will be considered to be discharging without a permit and in violation of state and federal law.

2.4 Coverage under an Individual Permit

Pursuant to A.A.C. R18-9-C902, a person may request, or be required by the director, to obtain coverage under an individual permit.

ADEQ will notify a MS4 operator that they must apply for an individual permit on a case-by-case basis if the department determines that the operator does not meet the conditions for coverage under the general permit. A situation that might trigger such a determination would be that the proposed discharge might cause or contribute to an exceedance of an applicable water quality standard. In some cases, ADEQ may allow the operator to proceed with coverage under the general permit provided additional control measures designed to address the specific issues at hand are adopted. Additionally, operators have the option to apply for an individual permit. See 40 CFR 122.28(b)(3).

When the activity does not conform to the general permit requirements or if ADEQ determines that the discharge is a significant contributor of pollutants, an individual AZPDES permit may be required so that permit conditions can be customized to the site. See A.A.C. R18-9-C902(A).

Likewise, any discharger may request to be covered under an individual permit rather than seek coverage under an otherwise applicable general permit. See A.A.C. R18-9-C902(B).

See A.A.C. R18-9-B901 for the requirements for an individual permit application and issuance or denial.

2.5 Continuation of this General Permit

Part 2.5 of the permit describes the procedure that applies if ADEQ does not reissue the permit by its expiration date. If this permit is not reissued or replaced prior to its expiration date, existing discharges are covered under an administrative continuance and the conditions of the permit remain in force and in effect for discharges covered prior to expiration. If coverage is provided to a permittee prior to the expiration of this permit, this permit automatically covers the permittee until the earliest of: (1) the effective date of a reissuance or replacement of this permit; (2) issuance of denial or an individual permit for the permittee's discharge; or (3) formal permit decision by ADEQ not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

Additionally, pursuant to A.R.S. §49-255.01(M), if the director commences proceedings for the renewal of the expired permit, new operators may obtain coverage under the expired permit.

3.0 STORMWATER PROGRAM ENFORCEMENT

3.1 Establish Enforcement Procedures (40 CFR 122.34(b)(3)(B))

Adequate enforcement authority is required to be developed and implemented, and enforced for many parts of the permittee's SWMP. (See 40 CFR 122.34(b)(3)(ii)(B), (b)(4)(ii)(A), and (b)(5)(ii)(B)). Without adequate legal authority, the MS4 would be unable to perform many vital permit requirements and SWMP functions such as performing inspections, eliminating illicit discharges, and requiring installation of control measures.

For cities and counties, the authority is provided by the state legislature to meet the minimum requirements of the municipal stormwater program. Specifically, for small MS4 counties, this authority is provided in A.R.S. 49-371 and 372, and authorizes the county to designate and authorize an administrative director for the program or plan prescribed by section 49-371 to perform enforcement duties.

Non-traditional MS4 permittees often cannot pass "ordinances" nor do they have enforcement authority like a typical municipality, so authority may consist of other mechanisms such as policies, standards, or specific contract language. Non-traditional MS4 permittees do not generally have the authority to impose a monetary penalty. Although these differences exist, just like traditional MS4s, non-traditional MS4s must develop, implement, and enforce the program, often by use of other regulatory mechanisms.

3.2 Enforcement Requirements

If not already developed, the permittee shall establish and exercise enforcement procedures to comply with this permit. See the permit for details related to this part.

3.3 Enforcement Response Plan(s)

This permit requires the MS4 to develop and implement an Enforcement Response Plan (ERP). The ERP must provide guidelines for personnel in determining appropriate enforcement actions toward violations encountered in enforcing the provisions of the MS4 regulations (codes, ordinances, permits, contracts, and other mechanisms).

The ERP must describe how the MS4 operator will investigate instances of noncompliance, describe the types of enforcement actions that may be taken in response to anticipated types of violations, and identify the time frame within which these enforcement actions will be taken and followed up.

The plan must include a general discussion of the criteria to be used in determining a proper response in various noncompliant situations. This “road map” will provide clarity and consistency to personnel at all levels of the MS4s stormwater program. ADEQ encourages the permittee to develop a tabular guide or flow chart to represent an escalated enforcement program.

4.0 STORMWATER MANAGEMENT PROGRAM

Permittees must develop, implement, and enforce a stormwater management program (SWMP) designed to reduce the discharge of pollutants to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate requirements of the Clean Water Act.

The SWMP must be available at the office or facility of the person identified on the NOI as the contact person for the SWMP. The SWMP must be immediately available to ADEQ or U.S. EPA. The permittee must also make the SWMP available to any member of the public during normal business hours, and have the SWMP available on the Small MS4s website. The SWMP must contain, at a minimum, the elements listed in Part 4.1 of the permit.

While updating the SWMP required by this permit, existing permittees must continue to enforce the SWMP that was required by the previous permit. This permit does not provide additional time for completing the requirements of the previous permit.

5.0 WATER QUALITY STANDARDS

The permittee shall develop, implement, and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act and Arizona Surface Water Quality Standards (SWQS).

This permit includes provisions to ensure that discharges do not cause or contribute to exceedances of a SWQS. The purpose of this part is to establish the broad inclusion of “water quality based effluent limitations” for those discharges requiring additional controls in order to achieve water quality standards and other water quality related objectives, consistent with 40 CFR § 122.44(d).

The nonnumeric effluent limitation requirements of this permit are expressed in the form of control measures and BMPs (see Part 6.0). An exceedance of a surface water quality standard does not necessarily constitute a permit violation when the permittee is in compliance with permit conditions, including developing, implementing, and enforcing a stormwater management program that is designed to reduce the discharge of pollutants to the maximum extent practicable.

6.0 MINIMUM CONTROL MEASURES

The permittee must implement a stormwater management program to reduce the discharge of pollutants to the maximum extent practicable by, at a minimum, implementing best management practices for each of the six (6) minimum control measures in part 6.0 of the permit.

In accordance with 40 CFR §122.35, the general permit allows a Small MS4 operator to rely on another entity for implementation of all or part of a permit condition or control measure. The permittee may rely on the other entity if the other entity is actually implementing the control measure or permit condition. The other entity must agree to implement the measure or condition for the MS4 and in accordance with permit requirements. If the other party fails to implement the measure or permit condition, the permittee is ultimately responsible for its implementation and potential compliance action.

It is important to note that Arizona's definition of "pollutant" is inclusive of many types of materials and wastes, and includes solid waste and garbage (commonly referred to as "trash"). Trash and litter are a pervasive problem throughout Arizona, particularly in urbanized areas. Controlling trash is a priority because trash adversely affects the use of waterways. Trash affects aquatic life in streams, rivers, and lakes as well as terrestrial species in adjacent riparian and shore areas. Trash, particularly plastics and polystyrene, persists for years in the environment. It concentrates organic toxins, entangles and ensnares wildlife, and disrupts feeding when animals mistake plastic for food and ingest it. Additionally, trash creates aesthetic impacts, impairing our ability to enjoy our waterways and natural environment.

Trash is one of the forms of pollutants, can be found at nearly every component of a municipal storm sewer system (from roads and streets, to inlets, and underground infrastructure), and can ultimately be discharged at an outfall. The issue of trash provides a unique and important focus point for an effective stormwater program because it can be applied to all six (6) of the minimum control measures.

6.1 Public Education and Outreach

The MS4 must implement a public education program to distribute educational materials to the community; or conduct other outreach activities about the impacts of stormwater discharges on water bodies, and steps the public can take to reduce pollutants in stormwater runoff. The education program must be specific to the MS4 and include a focus on the pollutants of concern associated with impaired and not-attaining waters affected by discharges from the small MS4. The overall long-term goal of an effective education program is to change behavior and increase the knowledge of the community.

An education program must have a defined and targeted message for each of the different audiences and must include a measure to evaluate effectiveness of the educational messages. Based on review of annual reports and the results of MS4 audits conducted by ADEQ and U.S. EPA, ADEQ found that some of the education

programs developed by permittees did not incorporate these expectations. In order to achieve the objective of this measure, the permit must provide educational materials to residents, commercial entities, institutional facilities, businesses, industrial facilities, and construction and development companies.

The educational messages must reflect the needs and characteristics of the area served by the MS4, and may include industrial and commercial areas, recreational areas, sporting venues, classrooms, and other venues, activities, and opportunities. Permittees can form partnerships with other organizations to assist in the implementation of its education and outreach programs. These partnerships may include other MS4s in a watershed, environmental groups, watershed associations, or other civic organizations, but the MS4 must ensure that the outreach is applicable and meets local education needs.

6.2 Public Participation and Involvement

This control measure is similar to the public education and outreach control measure. ADEQ supports the idea that if the public is given an opportunity to understand and participate in a stormwater protection program, the public will generally become supportive of the program. The objective of this measure is to provide and engage the public with opportunities to participate in the review and implementation of the SWMP. Permittees are encouraged to provide interactive opportunities for public participation. Examples include volunteer water quality monitoring, community clean up days, hazardous waste collection days, and adopt a drain or stream program.

The permit requires the permittee provide an opportunity for the public to participate in SWMP review and updates. Participation efforts should attempt to engage all groups serviced by the MS4. This effort may include creative public information messages such as announcements in neighborhood newsletters, use of television spots on the local cable channel, or announcements/displays at civic meetings. Ideally, public participation should involve a diverse cross-section of people, groups, and businesses in the community to assist in developing, implementing, and maintaining a comprehensive and effective stormwater program.

6.3 Illicit Discharge Detection and Elimination (IDDE) Program

This measure requires the permittee to detect and eliminate illicit discharges from its municipal separate storm sewer system. The regulations at 40 CFR §122.26(b)(2) define an illicit discharge as "...any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities."

The requirement for small MS4 permittees to identify and eliminate illicit discharges is found in 40 CFR 122.34(b)(3), which specifies the permittee "...must develop, implement, and enforce a program to detect and eliminate illicit discharges (as defined at §122.26(b)(2)), into your storm sewer system."

To meet the minimum requirements of this control measure, the permittee must develop, implement, and enforce an IDDE program to identify facilities or activities within the permitted MS4 area that discharge to the permittee's small MS4. Consistent with the regulatory definition of an illicit discharge, facilities or activities that discharge to the MS4, but do not have authorizing AZPDES/NPDES permit coverage constitutes an illicit discharge. Failure to identify and eliminate illicit discharges to the storm sewer system to the MEP constitutes a permit violation. Permittees are required to have a program to identify illicit discharges.

This provision serves to implement, in part, the statutory requirement that MS4 permits effectively prohibit non-stormwater discharges to their storm sewer system. Spills, leaks, sanitary sewer overflows, and illicit dumping or discharges can introduce a range of stormwater pollutants into the storm system. Prompt response to these occurrences is the best way to prevent or reduce negative impacts to protected surface waters. An effective response program will have Standard Operating Procedures (SOP) for spill response, including investigation and corrective action procedures.

Often, a different entity might be responsible for spill response in a community (i.e., fire department), therefore, it is imperative that adequate communication exists between stormwater and spill response staff to ensure that spills are mitigated, investigated, corrected, and documented in a timely manner.

Illicit discharges can enter the storm system in a variety of ways, such as incorrectly connected wastewater discharge lines and surface runoff. The permit includes requirements to identify sources of illicit discharges, including unpermitted discharges. Upon detection or identification of an illicit discharge, the permittee must implement measures to control or prohibit such discharges. Failure to do so constitutes a potential small MS4 permit violation.

The permit describes required components of an illicit discharge detection and elimination program. Permittees are required to develop an IDDE protocol as part of the SWMP that includes specific requirements, procedures, and approaches to identify and eliminate illicit discharges, including escalated enforcement procedures. Examples of these requirements are a storm sewer system map, prioritization of areas with illicit discharges, wet and dry weather visual outfall monitoring, record keeping, and thorough and complete storm drain network investigations that systematically and progressively evaluate the storm sewer system to isolate the location of a suspected illicit connection or discharge.

Similar to the 2016 Small MS4 permit, this permit requires MS4s to develop and maintain a storm sewer system map that includes outfalls and names and locations of all protected surface waters that receive discharges from the MS4 outfalls. The system map(s) are an integral component to assist the MS4 permittee with identifying the source of illicit discharges that originate upstream of the outfall.

The MS4 must have adequate legal authority to implement the following activities as part of the IDDE program:

- prohibit illicit discharges;
- investigate suspected discharges;
- eliminate illicit discharges; and
- enforce the IDDE program.

The previous permit required development of a code, ordinance, or other regulatory mechanism to address these components. This permit requires existing permittees to evaluate existing codes/ordinances and revise them as necessary to ensure adequate enforcement authority. New permittees are required to develop, adopt, and implement codes or ordinances, to the extent allowed under state and local law, and to establish legal authority.

Permittees must assess outfalls and conduct wet and dry weather monitoring as to identify illicit discharges, and must develop protocol that clearly identifies responsibilities with regard to identifying, characterizing, and eliminating illicit discharges.

The permittee must have procedures or protocol established and implemented that clearly verify methodologies and responsibilities with regard to eliminating illicit discharges. It is expected that protocol will vary between permittees and may include one (1) or more departments within any given permittee's organizational structure. Such divisions and responsibilities must be coordinated and clearly documented to ensure the program is effective in identifying and responding to illicit discharges.

The permit does not require a specific methodology, only that one exists and that the staff responsible for locating and removing illicit connections are familiar the program and responsibilities. The protocol/procedure must also define appropriate methods for removal of the illicit discharge or connection. Finally, there must be procedures for confirmation of removal of illicit discharges or connections. The permittee must develop procedures that detail a systematic approach for locating and removing illicit discharges. The systematic procedure, at a minimum, includes three (3) parts. The first part is the outfall inventory; the second part is tracking a discharge to a source; and finally, removal of the source. Each of these parts is discussed in the paragraphs below.

The outfall inventory may include walking stream miles within the MS4 boundary that receive a discharge from the MS4 and locating all the outfalls. The permittee should use the definition of outfall found at 40 CFR §122.26(b) for purposes of identifying outfalls. When an outfall is located, the permittee must record specific information. Example information that should be documented includes: the dimensions, shape, material, and spatial location; and the physical condition of the outfall. Each outfall must have a unique identifier. In addition to the physical observations, the permittee should also record any sensory observations. This includes color, odor, floatables, oil sheens or evidence of flow.

If flow is observed at an outfall, a sample should be taken and the source of the dry weather flow be determined. The flow should be analyzed for conductivity, turbidity, pH, chlorine, temperature, surfactants (as MBAS), potassium, ammonia and *E. Coli* or enterococcus to help identify potential source(s). If the source is not readily determined, a more intensive investigation should be undertaken.

If an outfall has evidence of a flow, but there is not an actual flow during the inventory or dry weather monitoring, there may be an intermittent discharge. Intermittent discharges can be difficult to track because they can occur at various times. There are monitoring techniques a municipality can use to try to address a suspected intermittent discharge. These techniques include: (1) odd hour monitoring; (2) optical brightener monitoring (OBM) traps; (3) caulk dams; (4) pool sampling; and (5) toxicity monitoring. In addition to the use of indicators to help identify the source of an illicit connection or discharge, the permittee may use dye testing, video testing, smoke testing or other appropriate methods to aid in locating illicit connections or discharges.

In addition to detecting and removing illicit discharges, the permittee must also develop and implement mechanisms and procedures for preventing illicit discharges. This includes training to inform public employees, businesses, and the general public of the hazards associated with illegal discharges. The requirement to prevent illicit discharges can be incorporated into the public education and public participation control measures. Examples of mechanisms to prevent illicit discharges include: identification of opportunities for pollution prevention or source control; distribution of information concerning car washing or swimming pool draining; routine maintenance activities; and inspections of facilities.

Inspections and screening for non-stormwater discharges into the MS4 may be conducted using the Illicit Discharge Detection and Elimination: “*A Guidance Manual for Program Development and Technical Assessments, Center for Watershed Protection,*” October 2004 (available at www.cwp.org).

A stormwater hotline or website can be used to help permittees become aware of and mitigate spills or dumping incidents. Spills can include everything from an overturned gasoline tanker to sediment leaving a construction activity to a sanitary sewer overflow entering into a storm drain. Permittees must set up a hotline consisting of any of the following (or combination thereof): a dedicated or non-dedicated phone line, E-mail address, or website.

In order for a permittee to have an effective illicit discharge identification and elimination program, it is critical to have properly trained personnel. Permittees are required to train field staff, who may come into contact or observe illicit discharges, on the identification and proper procedures for reporting illicit discharges. Field staff to be trained may include, but are not limited to, municipal maintenance staff, inspectors, and other staff whose job responsibilities regularly take them out of the office and into areas within the MS4 area. Field staff are out in the community are in an effective position to locate and report spills, illicit discharges, and potentially polluting activities without increasing staff. With proper training and information on

reporting illicit discharges easily accessible, these field staff can greatly expand the reach of the IDDE program.

Additional sources of illicit discharges include stormwater and non-stormwater discharges to the MS4 from construction activities, industrial activities, and others that do not have appropriate Clean Water Act permit coverage. Permittees are required to contact site or activity operators that discharge to discharge to the MS4. Permittees are given the flexibility to develop and implement a program suited to their small MS4 area. Contact may be done by various means, including site visits, phone calls, mailers, or combination.

ADEQ encourages permittees to coordinate the IDDE program requirement with public education and outreach to inform businesses and the general public about the hazards associated with illegal discharges and improper disposal of waste.

To the extent known, the permittee must include in the annual report the number of illicit discharges to the storm sewer system, the number of contacts made and method of contact, facility/activity name, address, and contact person, whether or not the facility/activity has an appropriate AZPDES permit, and other pertinent information.

6.4 Construction Activity Stormwater Runoff Control

Permittees must develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the storm sewer system from construction activities that result in a land disturbance of greater than or equal to one (1) acre and discharge to the MS4. This includes those construction activities that are less than one (1) acre if that construction activity is part of a larger common plan of development or sale that will disturb one (1) or more acres (see 40 CFR 122.26(b)(15) and 40 CFR 122.34(b)(4)).

This permit does not cover stormwater discharges associated with construction activities conducted by the small MS4. If the small MS4 operator meets the definition of “operator,” as defined in Arizona’s Stormwater Construction General Permit (CGP), the small MS4 operator must obtain separate CGP coverage for those projects. Examples include roadways, parks, and other capital improvement projects.

The overall objective of an effective construction runoff management program is to have a program that minimizes or eliminates erosion and maintains sediment on site and reduces or eliminates the discharge of other pollutants associated with construction projects (e.g., concrete / washout, paints, solvents, fuels, lubricants, solid waste, etc.).

The construction program required by this permit is different from ADEQ’s Stormwater Construction General Permit (CGP). ADEQ’s CGP applies to construction projects that have one (1) or more acres of disturbed land and discharge directly to a water of the U.S. or indirectly through an MS4, and includes prescriptive requirements including monitoring for discharges to OAWs or impaired

waters. The MS4 permit, in contrast, has two pages covering what the municipality must do to control construction stormwater discharges to its MS4, and allows significant discretion on how to apply that program. ***The MS4 permit's construction stormwater requirements only apply to the discharges from construction projects that discharge directly to its storm sewer system. The MS4 permittee is not responsible for enforcing any terms of ADEQ's CGP permit, including when CGP coverage is required.*** The permittee must have an ordinance or other regulatory mechanism requiring proper sediment and erosion control. In addition to addressing sediment and erosion control, the ordinance must include controls for other wastes on construction sites such as demolition debris, litter and sanitary wastes. ADEQ encourages permittees to include design standards in local regulations for sediment and erosion control BMPs. The department recommends that design standards focus on reducing stormwater exposure to pollutants, maintaining pre- and post-construction stormwater water quality, volume, and intensity rather than focusing on maintaining stormwater onsite.

The construction program must have procedures for preconstruction review and approval of site plans. Permittees should make every effort to ensure that qualified personnel review plans. The procedures must ensure that plan reviews include consideration of water quality impacts. The review procedures must be included in the SWMP.

The construction program must have procedures for site inspections and enforcement. Qualified personnel should perform inspections. Inspections should occur during construction as well as after construction to ensure that BMPs are installed and operating as described in approved plans. The permittee shall have clearly defined procedures regarding who is responsible for inspections and what aspects of the construction site are to be inspected. Inspection and enforcement program elements are to ensure construction activities are in compliance with local stormwater codes/ordinance or other regulatory mechanisms. ***The regulated MS4 is not expected, nor is it authorized, to enforce Arizona's Stormwater Construction General Permit.***

To effectively conduct inspections, the permittee must know where construction activity is occurring. A construction activity inventory tracks information such as project size, disturbed area, distance to any waterbody or flow channel, when the erosion and sediment control/stormwater plan was approved by the permittee, and whether the project is covered by the permitting authority's construction general permit. This inventory will allow the permittee to track and identify projects for inspections.

In order to ensure proper implementation and maintenance by site operators, a rigorous inspection protocol is necessary. This protocol must include written procedures for site inspections and enforcement to ensure inspections and enforcement actions are conducted in a consistent manner.

ADEQ recommends that MS4s prioritize site inspections and frequency of inspection based on construction activity attributes such as potential for erosion, proximity to a surface water (including impaired and not-attaining waters and OAWs), size of the construction project/activity, and previous experience with contractors.

To the extent allowable, the permittee must have authority to impose sanctions if construction projects are found not to be in compliance with the local ordinance. Sanctions can include monetary penalties or stop work orders.

An MS4 should look at the various components of the local government and whenever possible, optimize coordination between municipal offices and other MS4s as appropriate to ensure adequate review of plans and other documents associated with a construction project.

The permit requires staff whose primary job duties are related to implementing the construction stormwater program to have the knowledge, skills, and ability to carry out their assigned duties. An effective part of this program relies on adequate training, both for new employees and for ongoing training for existing employees.

Education of construction activity operators regarding stormwater management and regulatory requirements is an essential part of controlling stormwater discharges from construction activities. Making brochures, guidance documents and trainings available will increase the knowledge of operators and compliance in the field and can help them choose the correct structural control and processes, correctly install the controls, and successfully implement control measures.

Procedures for public involvement are required and should include tools such as a hotline, email, website, and/or mobile application for the public to access regarding stormwater concerns associated with construction activities.

Common Plan of Development

A common plan of development or sale comes into being upon the time when there is documentation showing plans to disturb earth regardless of how many phases or how long it will take. Common documents used to confirm such a plan include plats, blue prints, marketing plans, and contracts.

Sometimes a new operator will want to perform some earth disturbing activities at a facility that originally was a common plan of development or sale, but wants to know if it still is a common plan of development or sale for which they would need to apply for permit coverage even if under one (1) acre. ADEQ follows a two-prong assessment to determine if a facility is no longer a common plan of development or sale:

Was the original plan, including modifications, ever substantially completed with less than one (1) acre of the original "common plan of development or sale" remaining (e.g., <one (1) acres of the "common plan" were not built out at the time)?

Is there a clearly identifiable period of time where there is no on-going construction, including meeting the criteria for final stabilization (e.g., a couple of years or more)?

If the new operator at a facility evaluates his project and determines that the original facility meets the two (2) criteria above, then the original common plan of development or sale has ended and the operator should evaluate only their new construction plans. If the new plans are less than one (1) acre and not part of another common plan of development or sale, then no permit is needed.

Examples of larger common plan include the following (adapted from U.S. EPA, Region 6 – Compliance Assurance and Enforcement, February 2009):

Example 1: A residential subdivision was started in the 1980's. 97 of 100 houses were built at that time. A new operator comes some time later and wants to build the last three (3) houses and they are less than one (1) acre. Does the builder need a permit? Using the two (2) criteria test above, the original purpose was substantially completed (there is less than one (1) acre total remaining from the original "common plan") and there has been a clearly identifiable period of time of no on-going construction. So the new operator would not need a permit.

Example 2: A residential subdivision was started in the 1980's. Due to bankruptcy, only 40 of the 100 lots were ever completed. There has been no earth disturbing since the mid 1980's. Does this facility need a permit if a new operator wants to come build two (2) new houses on 0.25 acre lots? Yes, the new operator needs a permit no matter how few of acres he's disturbing because the original common plan of development or sale was never substantially completed. To build out the remaining 60 lots from the original "common plan" would disturb more than one (1) acre.

Example 3: A large mall was started last year and finished last month. At the last minute, the developer is able to buy two (2) acres of adjacent property and wants to add some additional parking spaces to the new parking lot. He hires a new general contractor to build this parking lot. Does this new two (2) acre parking lot need permit coverage? The original purposes may have been substantially completed, but there is no clearly identifiable time of no on-going construction. So the operators of the new parking lot would need a permit.

Example 4: A large industrial plant covering 15 acres was completed two (2) years ago. The company has grown, so the owners have decided to expand the facility and bought two (2) acres adjacent to the facility to add a new building, parking, etc. that will disturb 0.75 of the two (2) acres. He hires a general contractor to build this expansion. Does this facility expansion need permit coverage? The original purpose was substantially completed, there is a clearly identifiable time of no ongoing construction, and the expansion will disturb less than one (1) acre. The expansion projects will not need a permit.

6.5 Post-Construction Stormwater Management in New Development and Redevelopment

This control measure requires the MS4 to continue to review and enforce a program to address post construction stormwater runoff from areas of new development and redevelopment that disturb one (1) or more acres. Permittees must implement an ordinance or other regulatory mechanism to manage post-construction stormwater runoff into the MS4.

This measure applies in areas of new development and redevelopment of construction activities that disturb one (1) acre or more. The long-term objective of this measure is to have the hydrology associated with new development closely mirror the predevelopment hydrology and to improve the hydrology of redeveloped sites.

Post-construction stormwater runoff may cause several types of impacts. One is an increase in the type and the quantity of pollutants. The alteration of the land by development can increase the discharge of pollutants such as oil and grease, heavy metals, and nutrients, and by stormwater runoff.

The MS4's post-construction stormwater runoff program should focus on building codes, ordinances, allowances, credits and other measures to ensure and promote the concept that post-construction stormwater runoff be similar to pre-construction stormwater runoff in quality, quantity, and velocity.

Management of stormwater can be accomplished in many ways. Low Impact Development (LID) focuses on using practices that imitate the natural water cycle. Rather than directing stormwater to a pipe or conveyance, the stormwater is managed onsite. LID practices can work at the site level as well as the watershed level. The permit requires the permittee to evaluate existing local regulations and make determinations as to whether the existing local regulations allow LID practices and what changes could be adopted to better promote LID practices.

6.6 Pollution Prevention and Good Housekeeping for Municipal Operations

This section applies to municipal facilities that are not otherwise subject to separate stormwater permitting (i.e., industrial activities subject to coverage under Arizona's Multi-Sector General Permit, MSGP).

Some municipal facilities are not currently subject to a separate stormwater permit (e.g., facilities that primarily work on police cars, fire trucks, and others associated with justice, public order, and safety). Municipal facilities are subject to MSGP coverage if it resembles a kind of facility with a Standard Industrial Classification (SIC) code that is covered by the MSGP (e.g., bus maintenance yard, airport maintenance facility), see 40 CFR 122.26(b)(14).

ADEQ's approach to permitting applicability for municipal facilities that conduct a mix of covered/not covered vehicles is to assess if more than 50% of the activities conducted at the facility are subject to MSGP coverage. For example, if 55% of the vehicle maintenance conducted at the municipal facility is on equipment associated with police cars, fire trucks, and other equipment associated with

justice, public order, and safety, then the facility is subject to the MS4 permit. However, if 55% of the activities are associated with garbage trucks, snowplows, and similar/other equipment, then the facility is subject to separate permitting under Arizona's MSGP. See also 40 CFR 122.26(b)(14) which states "Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (B)(14)(i) through (xi) of this section) include those facilities designated under the provisions of paragraph(a)(1)(v) of this section."

This measure requires small MS4s to develop and implement an operations and maintenance program that includes facility inspections and employee training. The ultimate goal of this measure is preventing or reducing pollutant runoff from all municipal operations. The permit includes the minimum requirements for the implementation of this control measure.

As part of the evaluation, the permittee must consider and include all facilities that are a source of stormwater pollutants. The permittee should evaluate the use and storage of petroleum products, management of dumpsters, and other wastes. Examples of typical municipal facilities or activities subject to this permit part include parks and open spaces, fire stations, police stations, buildings and facilities, roadways, storm systems, schools, festivals, and public events.

Each municipal facility or activity will require a different set of control measures depending on the nature of activities that occur there and the types of materials or pollutant sources. Developing and maintaining a site-specific Standard Operating Procedure (SOP) for each facility will help to ensure that employees responsible for facility operation are aware of the stormwater controls required for the site. The best way to avoid pollutant discharges from these sources is to keep precipitation and runoff from coming into contact with pollutant sources.

The permittee must establish and implement maintenance schedules and inspection frequencies for all permittee-owned facilities or activities subject to operation and maintenance and pollution prevention activities. This permit requires the permittee to develop a facility / activity risk priority schedule for operations, maintenance, and inspections. Determining risk priority schedules may be done by identifying pollutants that are stored at each facility and determining the likelihood of stormwater carrying the pollutant to a waterbody. For example, one may not think that a city park would qualify as a facility. However, most city parks have a storage area for maintenance that includes fertilizers, pesticides, trash containers, etc. which are all pollutants if not managed correctly so that they do not come in contact with stormwater. The inspection frequency may include daily site walks to ensure material are properly stored, equipment is operating as designed, and personnel are following established procedures.

For the program to be effective, permittees should develop a Stormwater Pollution Prevention Plan (SWPPP) or similar document for each municipal facility. A boilerplate can be utilized for basic information, but then tailored to each facility for specific needs. The SWPPP should include BMPs implemented at each facility or

discharge activity, facility listing, stormwater inspection frequency, staff training topics and frequency, and spill prevention and response procedures.

The US EPA originally requested that ADEQ include the requirements on this permit reissuance for MS4s to have an Asset Management Plan (AMP) to manage all the data related to municipal facilities, such as identifying facilities and infrastructure; planning ahead for maintenance and operations that are required at each location; scheduling inspections, etc. and maintaining all the data in one place. While ADEQ did not implement the requirement, we recommend that MS4s consider this approach to managing their assets as it may become a requirement in future permits. ADEQ is aware that some municipalities already have programs in place such as Lucity and Accela.

The regulations found at 40 CFR 122.34(b)(6) specifically require the permittee to develop a “training component” that trains employees “to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.” This permit requires employee training for existing and new employees who are involved in performing pollution prevention and good housekeeping practices. All training must include a general stormwater educational component, including an overview of the requirements with which the municipality needs to comply. The permittee is responsible for identifying which staff must attend trainings based on the applicability of the topics listed, and conduct initial and refresher training.

If the permittee uses third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees, those contractors performing activities that can affect stormwater quality must be held to the same standards as if the permittee uses its own personnel. Not only must these expectations be defined in contracts between the permittee and its contractors, but the permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using stormwater controls and following standard operating procedures.

7.0 ANALYTICAL MONITORING

In this permit, ADEQ is introducing analytical monitoring to all permittees in order to evaluate pollutant levels in stormwater. The permit requires that stormwater samples be taken, whenever possible, during the “first flush” (first 30 minutes of stormwater discharge) of a qualifying storm event to identify initial pollutants that may shock protected surface waters, as well as to assess the effectiveness of structural controls, such as retention basins, in managing the first flush of pollutants.

Capturing the first flush may also assist in detecting when non-stormwater discharges enter the stormwater system because such pollutants may be flushed out of the system during the initial portion of the discharge.

Storm event data is only required to be submitted for monitoring locations that had a qualifying storm event during that reporting period. If a qualifying storm event did not occur, then the permittee will use a NODI (No Discharge) code in myDEQ for the applicable monitoring location.

Part 7.2(4) requires the permittee to conduct stormwater characterization monitoring at three (3) outfalls or monitoring locations that are representative of stormwater discharges and land uses within the MS4. When water quality standards imposed at the point of discharge is impracticable or infeasible, applicable standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams in accordance with 40 CFR 122.45(h). The permittee can utilize interim monitoring points or field screening points within the MS4 to perform analytical monitoring because an outfall or point of discharge is inaccessible or may mix with other waste streams. If during the permit term the permittee comes across factors such as regulations, annexations, or construction, the permittee may relocate a monitoring location.

For those MS4s who discharge to an impaired water, a water listed as not-attaining, or to an Outstanding Arizona Water (OAW), the permit identifies requirements for analytical monitoring. Additionally, ADEQ retains the authority to require other analytical monitoring to assess permit compliance, to identify or characterize an illicit discharge, or ensure attainment of applicable surface water quality standards. In the event ADEQ requires additional analytical monitoring, the permittee will be notified in writing of the frequency, duration, methods (grab sample, composite sample, flow weighted, etc.), reporting requirements, and other applicable details.

At a minimum, the permittee must sample for those parameters for which the receiving water is impaired or identified as not-attaining, or other parameter resulting in the impairment.

Impaired and not-attaining protected surface waters are those waters included in Categories 4 and 5 of ADEQ's Clean Water Act Assessment, and require special consideration to ensure appropriate actions are implemented to achieve attainment of designated use(s). Additional information may be obtained on the assessment on ADEQ's website at www.azdeq.gov.

If there is a TMDL for the receiving water and the TMDL conflicts with any portion of the analytical monitoring requirements specified in this permit, the permittee shall follow whichever element of the permit or TMDL is more descriptive or inclusive (e.g., additional monitoring events, analytical parameters, etc.).

Permittees who are required to conduct analytical monitoring shall develop a sampling and analysis plan (SAP) to ensure samples are collected consistently and are representative of the discharge from the MS4. The SAP must include, at minimum, sampling procedures, sample preservation, chain-of-custody procedures, and a validation report from the analytical laboratory. The SAP must also include procedures for equipment calibration and usage for field parameters (pH, conductivity, temperature, etc.). ADEQ has provided a SAP Template on the ADEQ website for reference.

Permittees who discharge to an impaired water, a not-attaining water or an Outstanding Arizona Water are required to conduct analytical monitoring a minimum of two times per wet season. ADEQ will evaluate each monitoring plan to assess whether it is adequate to meet the requirements of this permit. Wet seasons are identified as:

Summer wet season: June 1 – October 31

Winter wet season: November 1 – May 31

Analytical monitoring shall be conducted in accordance with approved test methods in accordance with A.A.C. R18-9-A905

8.0 PROGRAM ASSESSMENT, RECORDKEEPING, AND REPORTING

8.1 Program Evaluation

A key requirement in the stormwater Phase II rule is a report (40 CFR 122.34(g)(3)) that includes “the status of compliance with permit conditions, an assessment of the appropriateness of identified [control measures] and progress towards achieving identified measurable goals for each of the minimum control measures.” This assessment is critical to the stormwater program framework, which uses the iterative approach of implementing controls, conducting assessments, and designating refocused controls leading toward attainment of water quality standards.

The permittee must periodically evaluate its SWMP for the following: compliance with the terms of the permit, the appropriateness of the identified BMPs and progress towards achieving the objective of the control measure and the permittee’s measurable goals. The permittee may need to change its selected BMPs identified in the SWMP based on this evaluation process in order to ensure compliance with the terms of the permit including water quality-based requirements.

ADEQ recommends that permittees utilize U.S. EPA’s MS4 Program Evaluation Guidance document (EPA-833-R-07-003) to assist with its annual program evaluation and self-audits. This document provides helpful information to identify and proactively address program deficiencies and improved effectiveness of the SWMP.

8.2 Recordkeeping

The permittee must keep all records required by this permit for a minimum period of three (3) years and must submit records as specified in the permit, and when requested by ADEQ or U.S. EPA. Records of monitoring information must include, at a minimum, the date, exact place, and time of monitoring event; the individual(s) who performed the monitoring; the dates analyses were performed; the individuals

who performed the analyses; the analytical techniques or methods used; and the results.

8.3 Annual Report

The annual report must document and summarize implementation of the SWMP during the previous year and evaluate program results and describe planned changes towards continuous improvement. The annual report also can serve as a “state of the SWMP” report for the general public or other stakeholders in the community. While records are to be kept and made available to the public, the annual report is an excellent summary document to provide as well.

The annual report must be submitted to ADEQ by September 30 each year. For more information on the annual report requirements, see Appendix A of the permit.