

NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rule-making information that does not fit into any other category of notice; and other types of information required by statute to be published in the *Register*. Because of the variety of material that is contained in a Notice of Public Information, the Office of the Secretary of State has not established a specific format for these notices.

NOTICE OF PUBLIC INFORMATION DEPARTMENT OF ENVIRONMENTAL QUALITY AZPDES DE MINIMIS GENERAL PERMIT

[M10-194]

- | | |
|---|--|
| 1. Name of the agency: | Department of Environmental Quality |
| 2. Title and its heading: | 18, Environmental Quality |
| Chapter and its heading: | 9, Department of Environmental Quality – Water Pollution Control |
| Article and its heading: | 9, Arizona Pollutant Discharge Elimination System |
| Section number: | R18-9-A908(E)(2) |
| 3. Notice of final permit determination: | |

On April 27, 2010, the Arizona Department of Environmental Quality (ADEQ) issued an Arizona Pollutant Discharge Elimination System (AZPDES) general permit (No. AZG2010-001) authorizing De Minimis discharges to waters of the United States. The general permit covers qualifying discharges in Arizona, except for Indian Country as defined in 18 U.S.C. 1151; and will be effective for a period of five years from the date of signature. The permit replaces the previous De Minimis General Permit (DMGP, Permit No. AZG2004-001) which expired on March 17, 2009.

De Minimis discharges are point source discharges that meet the applicable surface water quality standards (SWQS, 18 A.C.C. 11, Article 1); are generally infrequent, of low volume, and/or short in duration; and are conducted with appropriate best management practices (BMPs) to ensure compliance with the conditions of the permit. De Minimis discharges include discharges from potable water system installation and maintenance activities; subterranean dewatering; well development, testing, and maintenance; hydrostatic testing of pipes and vessels; reclaimed water system repair and pressure releases; residential cooling system condensate or overflow; charitable car washes; building and street washing; dechlorinated drainage from freshwater swimming pools; and other discharges specifically determined to be De Minimis by the Department. The permit contains certain conditions, limitations, and exclusions that apply to the above categories.

ADEQ made a public notice of the permit action available in 15 A.A.R. 1394, August 28, 2009, and accepted public comments until September 28, 2009. Eleven parties submitted comments on the draft permit, including municipalities, other governmental entities, water supply and irrigation districts, a water company, and various industries. ADEQ amended the draft permit, where appropriate, to address a number of the comments received. The following are the significant changes from the draft to the final De Minimis General permit:

- **Title page and Part I.A., and other key references:** The term “surface waters” has been changed to “Waters of the U.S.”
- **Part I.A.:** The paragraph addressing situations that require permit coverage has been moved to the corresponding section of the Fact Sheet, and now reflects the statutory requirement for AZPDES permit coverage (A.R.S. § 49-255.01). The language regarding the exemption of CERCLA activities from AZPDES permit requirements has been corrected.
- **Part I.B.4.e., I.B.5., and I.C.5., regarding reclaimed water discharges:** Revisions allow occasional short-term discharges of Class A+ or B+ reclaimed water to perennial, intermittent, or impaired waters, subject to Specific Approval (Part I.B.7.). Discharges of reclaimed water to Outstanding Arizona Waters (OAWs) and waters with the Domestic Water Source (DWS) designated use are still excluded from DMGP coverage.
- **Part I.B.6.c., Building and/or street wash water:** Language has been added specifying that accumulations of pollutants, if present, must be physically removed prior to conducting washing activities that will result in a discharge.
- **Part I.B.6., Other:** The discharges that do not require submittal of a Notice of Intent (NOI) (charitable car washes, swimming pools, etc., Part I.B.6.) are now authorized for discharge to *effluent-dependent waters*, in addition to ephemeral waters and non-DWS use canals.
- **Part I.B.6.d., Discharges of dechlorinated/debrominated swimming pool drainage:**
 - The permit now specifies discharges from *freshwater* pools to distinguish them from saltwater pools.

Notices of Public Information

- The permit now specifies that discharges must be dechlorinated or debrominated *prior to release* from the premises.
- The permit now specifies that pool drainage must be *visually clear, colorless, free of suspended solids, floating material, and debris*.
- **“NOTE” at end of Part I.B.; Part II.B.7.; and Part VII.B.:** The permit originally called for advance ADEQ approval for discharges lasting longer than 30 consecutive days. Revisions have been made to clarify that the threshold for this requirement is a discharge that will occur *continuously* for longer than 30 days.
- **Part I.C.3., under Limitations on Coverage:** This item no longer categorically excludes discharges containing “strong acids” or “caustic agents” (strong bases) from DMGP coverage. The permit contains adequate controls on these potential pollutants in its discharge limitations for pH.
- **Part II.A.6., Facility-wide coverage.** Revisions now clarify the following:
 - Discharges may be covered from maintenance and testing of a multiple-purpose water system *that supplies industrial use* along with a potable, irrigation, or fire suppression system.
 - DMGP coverage may be provided for discharges from *maintenance and testing* of water systems that are used for fire suppression. Discharges from emergency fire-fighting activities are not covered.
 - For reclaimed water systems, DMGP coverage is limited to Class A+ or B+ reclaimed water.
- **Part III.A.1., Discharges authorized under the 2004 DMGP:** This section has been revised to clarify that discharges that were authorized and not terminated under the 2004 DMGP remain authorized, subject to the conditions in DMGP Part III.A.1.a. – d. As in the draft permit, those conditions include updating the Best Management Practices Plan (BMPP) and submitting a new NOI or a Notice of Termination within certain time frames.
- **Part III.B.1. through 3., under Contents of NOI:** The permit now calls for the contact information of the facility owner and the facility operator (if different from the owner).
- **Part III. B.10, “NOTE” at end:** The use of “Table 2” (unspecified discharge locations for an Areawide, Facility-wide, or Project-wide NOI) is now allowed for discharges to any type of surface water, with certain conditions and limitations. The section has also been revised to allow Project-wide applicants to use Table 2.
- **Part IV.D.II.c.ii.:** The “NOTE” that contained ADEQ’s recommendation for reducing chlorine below the formal permit limit of 4,000 µg/L in discharges to ephemeral waters has been removed from the permit. A similar item has been added to the corresponding section in the Fact Sheet.
- **Part IV.D.3.:** The permit has been revised to provide that the BMPP may be modified only if the changes will result in equivalent or greater effectiveness in minimizing pollutants in the discharge. Resubmittal of the revised/updated BMPP to ADEQ is no longer required unless specifically requested by ADEQ.
- **Part VII.B.:** The definition of “best management practices” has been modified to match the statutory definition at A.R.S. § 49-201.3.
- **Part VII.B.:** A definition of “person” has been added reflecting the definition at A.R.S. § 49-201(27). This clarifies that the “person” submitting a NOI or seeking authorization to discharge may be an individual or any type of organization listed in the A.R.S. definition.
- **Part VII.B.:** A definition of “vault” has been added, to clarify the exception from routine coverage in Part I.B.2.
- **Part VII.B.:** A definition of “Waters of the U.S.” has been added to the permit, consisting of a reference to the definition in 40 CFR 122.2. The definition of “surface water” now simply refers to the definition in A.A.C. R18-11-101(41).
- **Appendix A, Part A.1.:** Language has been added providing that ADEQ may modify monitoring requirements prescribed in Appendix A., Tables A – D, based on water quality data submitted by the applicant/permittee.
- **Appendix A, Parts A.5. and B.1.:** The discharge threshold for required photographic documentation and reporting of monitoring results has been raised from 0.25 to **0.50** million gallons in any one day.
- **Appendix A, Tables A- C:** The format of the first section of each table has been modified to separate Discharge Limitations from Action Levels.
- **Appendix A, Table C:** The discharge limitation for Boron for surface waters with the Domestic Water Source designated use has been changed to 1,400 µg/L, in accordance with the 2009 SWQS (18 A.A.C. 11, Article 1).

4. The final general permit and associated documents:

A complete itemization of the public comments and ADEQ’s responses, a copy of the final fact sheet, and the final permit are available on the ADEQ web site at: <http://www.azdeq.gov/environ/water/permits/gen.html#demi> or contact ADEQ at (602) 771-4585.

NOTICE OF PUBLIC INFORMATION

LAWS 2010, CH. 287

Revisions to the Rulemaking Process in the Administrative Procedures Act
Extension of the Rulemaking Moratorium Through Fiscal Year 2011

[M10-191]

1. Reason for the Notice of Public Information:

Laws 2010, Ch. 287 revised the Administrative Procedure Act and extended the moratorium on rulemaking through fiscal year 2011

2. Effective date of Laws 2010, Ch. 287:

July 29, 2010

3. Summary of Laws 2010, Ch. 287:

Revises the rulemaking process by expanding the use of summary rulemaking, authorizing a general permit and expanding the role of the governor's Office of Strategic Planning and Budgeting.

Requires the rule's benefits to outweigh its probable costs and the agency to demonstrate it selected the least burdensome and costly alternative. (Strikes the requirement for this to be by clear and convincing evidence).

Expands the requirements for the Economic, Small Business and Consumer Impact Statement.

For the agency's five-year review, requires a determination that the rule imposes the least burden and cost to the regulated community.

During an appeal of an agency rule, outlines an additional reason for filing an objection.

Extends the rulemaking moratorium on rulemaking through fiscal year 2011

(Excerpted from Arizona House of Representatives House Majority Research Memorandum of April 28, 2010. Available online at www.azleg.gov.)

4. Contact for rulemaking moratorium questions:

Communications regarding exceptions to the moratorium, or questions regarding the moratorium generally, should be addressed to Richard Bark, Deputy Chief of Staff, Policy, at rbark@az.gov.

5. Location of full text of Laws 2010, Ch. 287:

The entire text of Laws 2010, Ch. 287 is available online at www.azsos.gov under Legislative Filings.

NOTICE OF PUBLIC INFORMATION

LAWS 2009, 3RD SPECIAL SESSION, CH. 7, § 28

("Moratorium on rule making relating to increased monetary or regulatory costs; exceptions; definitions")

[M09-429]

1. Reason for the Notice of Public Information:

Laws 2009, 3rd Special Session, Ch. 7, § 28 enacted into law a moratorium on rulemaking through June 30, 2010.

2. Effective date of Laws 2009, 3rd Special Session, Ch. 7, § 28:

November 24, 2009

3. Text of Laws 2009, 3rd Special Session, Ch. 7, § 28:

Sec. 28. Moratorium on rule making relating to increased monetary or regulatory costs; exceptions; definitions

A. Notwithstanding any other law, for fiscal year 2009-2010, an agency shall not conduct any rule making, including an informal rule making process, that would impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons or individuals or would not reduce the regulatory burden on the persons or individuals so regulated.

B. Subsection A of this section does not apply to rule making for any of the following:

1. An authorization or requirement enacted by the legislature after January 1, 2009 or as authorized by the governor after January 22, 2009.
2. To avoid a violation of a court order or federal law that would result in sanctions by the court or federal government to an agency in fiscal year 2009-2010 for failure to conduct the rule making action.
3. To prevent a threat to the public health, peace or safety.
4. To fulfill an obligation related to fees, rates, fines or regulations that are expressly delineated in the constitution of this state.
5. To implement or comply with the fiscal year 2009-2010 state budget or the American recovery and reinvestment act of 2009 (P.L. 111-5).
6. A rule or other item that is exempt from title 41, chapter 6, Arizona Revised Statutes, pursuant to section 41-

1005, Arizona Revised Statutes.

7. To eliminate or replace archaic or illegal rules.

C. An agency shall not conduct any informal or formal rule making pursuant to this section without the prior written approval of the office of the governor. This subsection does not apply to any agency that is independent of the office of the governor, including any agency that is headed by a single elected official or the corporation commission.

D. For the purposes of this section, “agency”, “person”, “rule” and “rule making” have the same meanings prescribed in section 41-1001, Arizona Revised Statutes.

4. Governor’s Office contact information:

Communications regarding written approval of the office of the governor should be addressed to Richard Bark, Deputy Chief of Staff, Policy at rbark@az.gov.