

Issues & Answers

NATURAL RESOURCES & ENVIRONMENTAL ALERT

Arizona De Minimis Discharge General Permit Out for Public Comment

By Phillip F. Fargotstein

Anyone discharging material into a water of the United States is required to have a permit under the Arizona Pollution Discharge Elimination System. Waters of the United States include rivers, tributaries and can include dry washes. The Arizona Department of Environmental Quality (“ADEQ”) is in the process of promulgating a new general permit for “de minimis discharges.” The draft permit was published in the Arizona Register on November 7, 2003 and provides for a public comment period until December 7, 2003. Qualifying under a general permit is less costly than obtaining an individual permit. Further, individual permits take longer to obtain. The following is a brief summary of the draft permit in the event that you would like to submit comments to ADEQ before the rule is finalized.

- The “de minimis discharge general permit” applies to the following types of discharges:
 - 1. Discharges associated with the operation of potable water systems.
 - 2. Discharges associated with water well construction, maintenance, rehabilitation and development or water supply or quality investigation.
 - 3. Discharges of groundwater, surface water or potable water associated with structural integrity (hydrostatic), testing of new pipelines, pipelines associated with installation and maintenance of sewer or reclaimed water transport systems. (This does not include pipelines that have been used to transmit oil or gas.)
 - 4. Discharges of reclaimed water systems (utilizing Class B or higher reclaimed water) relating to post-repair flushings and pressure releases.
 - 5. Discharges associated with subterranean dewatering.
 - 6. Discharges of residential, non-contact cooling water.
 - 7. Discharges of building and/or street wash water when only biodegradable soaps and/or water are used.
 - 8. Discharges from charitable and non-commercial carwashes and mobile vehicle washes when only the exterior of the vehicles are being washed with biodegradable soaps and/or water.
 - 9. Discharges from drainage from swimming pools.

In order to qualify for the general permit, a notice of intent (“NOI”) must be submitted to ADEQ that specifies the facility to be covered by the general permit. Depending upon the nature of the water receiving the discharge, the general permit becomes effective anywhere from five to 30 business days after submission of a complete NOI. In some situations, however, the general permit only becomes effective after written authorization from ADEQ is received, confirming that the NOI has been approved.

The draft rule provides that the general permit is not transferable. If the owner/operator of a facility that is subject to the de minimis general permit changes, a notice of termination (“NOT”) must be filed with ADEQ, followed by a new NOI by the new owner/operator. This can affect the timing of transactions. In order to avoid a gap in general permit coverage, steps must be taken prior to the transaction closing to ensure that the facility can continue to discharge under the de minimis general permit.

The draft rule contains detailed instructions concerning what must be included in an NOI and monitoring and reporting requirements. Also, depending upon the nature of the water receiving the discharge, the NOI may have to include a Best Management Practices Plan to minimize contamination.

Written comments should be submitted to ADEQ, Surface Water Permits Unit. They may be e-mailed to varga.chris@ev.state.az.us or faxed to (602) 771-4674. If you have a facility or participate in an activity that qualifies for the de minimis general permit, and would like assistance in submitting comments to ADEQ, please contact Phillip F. Fargotstein, at (602) 916-5453.

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