



Environmental Regulatory Guide

Summary Guide of Federal, State and Municipal Laws,
Regulations and Codes with Impact on
Development Activities within the City of Scottsdale

City of Scottsdale
PLANNING & DEVELOPMENT

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INTRODUCTION

The City of Scottsdale has prepared this Environmental Regulatory Guidebook for Development Activities to assist with the identification of environmental laws, rules, regulations and ordinances that need to be considered during the planning stages of proposed development activities. An awareness and understanding of these requirements up front will mitigate the downstream delays, costs and burden associated with regulatory agency enforcement and compliance.

Please NOTE:

The information provided herein is intended to serve only as a helpful guide. The user is advised to diligently evaluate and address the legal, regulatory and policy requirements applicable to each proposed or planned development activity. Due to the complex nature of environmental regulations, the services of a qualified professional consultant may be necessary to reduce legal liabilities and potential project delays.

In addition to environmental legal and regulatory requirements (federal, state, county), proponents of most development activities must also account for Scottsdale's Revised Code of Ordinances (aka, Municode), Design Standards & Policy Manual (DS&PM) and Fire Code for multiple code, zoning, design, planning, review and processing considerations.

Planning: <http://www.scottsdaleaz.gov/planning>

Municode: <http://www.scottsdaleaz.gov/codes>

DS&PM: <http://www.scottsdaleaz.gov/design/dspm>

Fire Code: <http://www.scottsdaleaz.gov/codes/fireord>

Quick Reference Guide for Planned Activities & Potential Environmental Regulatory Requirements

Planned Development Activity	Potential Env Requirement	Section
Soil disturbance (> 0.1 acre) - grading, excavation, unpaved work site	Dust Control Permit	1.1
Construction project (> 0.1 acre) - grading, excavation, unpaved work site	Dust Control Permit	1.1
Unpaved road & shoulder construction or maintenance	Dust Control Permit	1.1
Unpaved vacant lot (ownership or use)	Dust Control Permit	1.1
Bulk material handling and/or storage	Dust Control Permit	1.1
Structural demolition of <u>any</u> load-bearing element (wall, pillar, column, etc.)	NESHAPs Notification	1.2
Installation of natural gas or oil-fired boilers/heaters	Non-Title V <u>or</u> General Air Permit	1.3
Installation or use of fuel-fired electrical power generators	Non-Title V <u>or</u> General Air Permit	1.3
Gasoline storage & dispensing	Non-Title V <u>or</u> General Air Permit	1.3
Surface coating, solvent cleaning, dry cleaning operations	Non-Title V <u>or</u> General Air Permit	1.3
Discharge of pollutants to stormwater, or to ground surface exposed to rain	Construction, or Multi-Sector General Permit	2.1
Discharge of pollutants to municipal wastewater treatment system	AZPDES Permit	2.2
Discharge of pollutants to surface waters	AZPDES Permit	2.3
Discharge of dredged or fill materials into streams, washes or wetlands	CWA Sec 401 & Sec 404 Permit	2.4 / 2.5
Discharge of pollutants to groundwater through dry wells, lagoons, evaporation ponds, or certain containment structures	Aquifer Protection Permit	2.6
Installation of aboveground storage tanks	Fire Marshall Construction Permit	3.1
Installation of underground storage tanks	ADEQ Notification Form	3.2
Closure of underground storage tanks	ADEQ Notification; Assessment Report; Fire Marshall Inspection	3.3
Petroleum storage (1,320 gal aboveground / 42,000 gal underground)	SPCC Plan	3.3
Hazardous waste generation (>220 pounds in one calendar month)	Acquire EPA Identification No.	4.0
Historic property	SHPO Consultation	5.1
Archeological or paleontological survey	Arizona State Museum Permit	5.2
Native American Graves	Arizona State Museum Notification	5.3
Environmental Sensitive Lands Ordinance (ESLO)	Conformance with ESLO	5.4
Natural Area Open Space (NAOS) Codes	Conformance with NAOS Codes	5.5
Arizona Native Plant Law	Conformance with Arizona Law and Scottsdale Codes	5.6

1.0 CLEAN AIR ACT & AMMENDMENTS of 1990 (CAA)

The Clean Air Act is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

The Valley has exceeded the federal air quality standards for three general types of pollutants: carbon monoxide, ozone, and PM-10 (airborne dust, or particulate matter of 10 microns or less in size). Because of this, federal and state agencies have enacted laws, regulations and management plans to control the activities and operations that contribute to these exceedances.

Regional carbon monoxide and ozone plans focus on reducing automobile use and traffic congestion. Many of the man-made sources of coarse particulate matter are dust from construction activities, vacant lots, dirt roads, off-road areas where people have destabilized soil. Dirt that is tracked-out onto public roads by construction vehicles produces more airborne dust by vehicles driving over it.

Arizona meets the primary goals of the CAA through multiple State Implementation Plans (SIPs), permitting programs, and oversight of the regional air quality regulatory agencies.

Primary Agencies Involved:

U.S. Environmental Protection Agency (EPA) is responsible for overseeing and enforcing the CAA nationally. EPA authorizes each state's administration and enforcement of the CAA.

Arizona Department of Environmental Quality (ADEQ) is authorized by US EPA to develop statutes and regulations that implement the CAA provisions on the state and regional level. ADEQ is responsible for developing state implementation plans with regional governmental groups. ADEQ is also responsible for motor vehicle emission controls.

Maricopa Association of Governments (MAG) is a Council of Governments authorized to develop the regional planning strategy for the Phoenix nonattainment area. It is a valuable resource for information concerning the current status of regional plans and legislative activity.

Maricopa County Air Quality Division (MCAQD) regulates stationary and fugitive sources of air pollution through its authority for rule making, permit issuance and violation enforcement.

Development Activity Considerations

Business operations and commercial or industrial activities often have the potential to generate or emit regulated air pollutants. Prior to commencing any new construction or commercial operations, an entity must determine if its proposed activities, equipment or operational conditions require registration and/or an air quality permit from either ADEQ (very large sources) or MCAQD (most Minor & Major sources).

The links below provide access to the ADEQ and MCAQD resources most frequently used when determining whether planned development activities will require the advance issuance of an air quality permit.

Arizona Department of Environmental Quality - Air Quality Division

Home Page: <http://www.azdeq.gov/environ/air/index.html>
Permit Engineering: <http://www.azdeq.gov/environ/air/permits/index.html>
Rules/Regulations: http://www.azsos.gov/public_services/Title_18/18_table.htm

Maricopa County Air Quality Department

Home Page: <http://www.maricopa.gov/aq/>
Permit Engineering: http://www.maricopa.gov/aq/divisions/permit_engineering/Default.aspx
Rules/Regulations: http://www.maricopa.gov/aq/divisions/planning_analysis/Default.aspx

The following list includes (as examples only) activities, operations and equipment that may trigger a requirement for equipment registration and/or air permit application.

- Fuel burning equipment
 - boilers, heaters
 - power generators (supply, or emergency backup)
 - industrial ovens
- Surface finishing or coating (architectural, furniture, vehicle, parts, etc.)
- Solvent usage, cleaning or degreasing
- Abrasive blasting
- Gasoline dispensing
- Heavy equipment operation
- Fugitive particulate emissions generated by:
 - Soil disturbance (excavation, grading, earth moving)
 - Travel on unpaved roads and uncontrolled vacant lots
 - Soil track out onto public roads
 - Structural demolition or renovation

A detailed understanding of the applicability of the federal, state and county air quality laws, regulations and rules to a proposed development activity may require the services of a qualified legal or professional consultant.

Agency Office Contact Information

Maricopa County Air Quality Department
1001 North Central Avenue
Phoenix, AZ 85004
<http://www.maricopa.gov/aq/>
(602) 506-6010

Maricopa Association of Governments

302 North 1st Avenue
Phoenix, AZ 85003
<http://www.azmaq.gov>
(602) 254-6300

Arizona Department of Environmental Quality

Office of Air Quality Control
1110 West Washington Street
Phoenix, AZ 85007
<http://www.azdeq.gov/environ/air/>
(602) 771-2367

U.S. EPA Region 9

75 Hawthorne Street
San Francisco, CA, 94105
<http://www.epa.gov/aboutepa/region9.html>
(415) 947-8000

City of Scottsdale - Environmental Compliance Support

Office of Environmental Initiatives

7506 East Indian School Road (Mail Stop: CDS101)

Environmental Planner (480) 312-4309
Manager (480) 312-7833

1.1 Soil Disturbance - Dust Control Permit

Fugitive dust from unstable or disturbed dirt surfaces (such as construction areas, vacant lots, dirt roads and dirt tracked out onto paved surfaces) are the largest man-made contributors to Maricopa County’s non-attainment of the PM-10 standard. The Maricopa County Air Quality Department issues Dust Control Permits to citizens who plan to conduct activities that will disturb a surface area equal to or greater than 0.1 acre, or the demolition of buildings. These permits require the permittee to plan their dust control measures to prevent the creation of fugitive dust. All sites with disturbed surface areas must maintain compliance with MCAQD Rule 310 and Rule 310.01.

Suggested Advance Action:

Determine if the proposed development activity triggers any requirement to acquire a Dust Control Permit from MCAQD.

Will the proposed activity generate fugitive particulate emissions by:

- Disturbing soil (excavation, unpaved event parking, grading, earth moving, etc.) with a surface area greater than 1/10th acre
- Involving vehicle and equipment travel on unpaved roads and uncontrolled vacant lots
- Creating soil ‘track out’ onto paved public roads
- Demolishing or constructing physical structures

- Handling, staging and/or transporting bulk material. These materials include soil, aggregate base course, gravel, spoils, and any other material capable of generating dust.

Review the Dust Compliance web page for information, applications, subcontractor registration and training resources:

<http://www.maricopa.gov/aq/divisions/compliance/dust/Default.aspx>

1.2 Structural Demolition and Facility Renovation - Asbestos Notification

The Maricopa County Air Quality Department regulates all asbestos renovation and demolition activities within Maricopa County. At a minimum, MCAQD may require the submission of the Notification Form required under the National Emission Standards for Hazardous Air Pollutants (NESHAP) - see below.

Suggested Advance Action:

Determine if the proposed development activity qualifies as either **demolition** or **renovation**, as defined by federal, state and county asbestos regulations.

- http://www.maricopa.gov/aq/divisions/compliance/air/asbestos_neshap/Default.aspx
- **Demolition:** The wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility. **Note:** **ALL demolition activities (with few qualified exceptions) require the submission of the NESHAP Notification Form whether or not regulated asbestos-containing material is present.**
- **Renovation:** Altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material (RACM) from a facility component. **Note:** whether renovation requires the submission of a NESHAP Notification Form depends upon the amount of RACM involved.

Prepare a NESHAP Notification Form, if required, for submission to MCAQD:

- http://www.maricopa.gov/aq/divisions/compliance/air/asbestos_neshap/notification.aspx
- May require an asbestos survey and summary report by a qualified inspector/sampler.
- A NESHAP Notification shall be postmarked or delivered to the MCAQD NESHAP Coordinator at least ten business days before beginning regulated asbestos renovation activity, or before beginning any demolition activity of a regulated NESHAP facility - even when no asbestos is present.

1.3 Stationary Sources

Air permits are required for any source that releases an air contaminant into the air unless it is specifically exempt. Examples of sources and operations that may require air quality permits include:

- Fuel-fired boilers and water heaters
- Incinerators

- Stationary internal combustion engines (e.g., electric power generators)
- Surface coating, stripping or refinishing
- Solvent parts cleaning
- Dry cleaning
- Woodworking
- Gasoline dispensing
- Dust-generating activities (see Section 1.1)

Suggested Advance Action:

Determine if the proposed development activity triggers any of the requirements for the following permit categories. One must consider all regulated equipment and activities on a facility when making this determination.

General Permit - offers a less burdensome option for permitting facilities with simpler, or lower emissions sources. This should be a consideration when there is only one source of regulated emissions on site (e.g., gasoline dispensing, or emergency power generator).

http://www.maricopa.gov/aq/divisions/permit_engineering/general/Default.aspx

<http://www.azdeq.gov/environ/air/permits/class.html>

Non-Title V Permit - MCAQD's Non-Title V program issues permits for sources such as gasoline tanks, heating units, internal combustion engines and surface coating operations that are below the Title V emission thresholds, and that are not considered exempt or insignificant per MCAQD Rule 200 and Appendix D. The permits include conditions that regulate source-specific emission limits, monitoring, operational requirements, recordkeeping and reporting.

http://www.maricopa.gov/aq/divisions/permit_engineering/non_titlev/Default.aspx

Title V Permit - In the Title V program, MCAQD or ADEQ issues comprehensive operating permits to facilities that emit significant amounts of air pollutants (>2 tons/year). These permits apply to major sources of emissions. Typically, an engineer or professional consultant familiar with the complexities of major source air permitting would prepare a Title V Permit application, in close consultation with MCAQD and/or ADEQ Air Quality Division.

http://www.maricopa.gov/aq/divisions/permit_engineering/titlev/Default.aspx

<http://www.azdeq.gov/environ/air/permits/class.html>

2.0 CLEAN WATER ACT (CWA)

The Clean Water Act establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, EPA has implemented pollution control programs such as setting wastewater standards for industry. EPA also sets water quality standards for all contaminants in surface waters.

The CWA makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit is obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge are exempt from NPDES permitting. However, commercial, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters. This includes discharges to soil or ground surfaces that (through runoff, seepage or leaching) may contaminate surface and ground waters.

Arizona Department of Environmental Quality - Water Quality Division
 1110 West Washington Street
 Phoenix, Arizona 85007

Development Activity CWA Considerations

If the proposed activity includes any of the following, please refer to the cited document section, and the subsequent governing laws and regulations.

Planned Development Activity	Section
<ul style="list-style-type: none"> • Discharge of pollutants to stormwater, or to ground exposed to rain or stormwater. Examples: - chemical containers stored outdoors and exposed to rain - construction site soil erosion - fuel or chemical transfers outside 	2.1
<ul style="list-style-type: none"> • Discharge of pollutants to municipal wastewater treatment system (city sewer) Examples: - process chemicals, or industrial wastewater discharged to public sewer - restaurant discharge of fats, oils & greases 	2.2
<ul style="list-style-type: none"> • Discharge of pollutants to surface waters Examples: - chemicals or industrial wastewater released to arroyos, streams, ponds, lakes or wetlands. - intermittent discharges from reclaimed water systems, charitable car washes, street and building wash-downs, etc. 	2.3
<ul style="list-style-type: none"> • Discharge of dredged or fill materials into streams, washes or wetlands Example: - any dredging or dumping in, or near, Indian Bend Wash 	2.4
<ul style="list-style-type: none"> • Discharge of pollutants to groundwater through dry wells, lagoons, evaporation ponds, or certain containment structures Examples: - process chemicals, fuels or waste materials conveyed by stormwater to dry wells - surface impoundments, pits, ponds, and lagoons - leach fields or septic tank systems 	2.5

2.1 Stormwater Discharges

Stormwater runoff is rain that flows over land and does not percolate into the soil. Stormwater runoff occurs naturally from almost any type of land surface, especially during larger storm events. Impervious surfaces, such as buildings, homes, roads, sidewalks, and parking lots, can significantly alter the natural hydrology of the land by increasing the volume, velocity, and temperature of runoff and by decreasing its infiltration capacity. Increasing the volume and velocity of stormwater runoff can cause severe stream bank erosion, flooding, and degrade the biological habitat of these streams. Reducing infiltration can lower ground water levels and affect drinking water supplies. In addition, as stormwater runoff moves across surfaces, it picks up trash, debris, and pollutants such as sediment, oil and grease, pesticides and other toxics. These pollutants can be detrimental to aquatic life, wildlife, habitat, and human health. Soil exposed by construction activities is especially vulnerable to erosion. Runoff from an unstabilized construction site can result in the loss of tons of sediment per acre each year.

Suggested advance actions:

Determine if the scope and implementation of the proposed development action triggers any of the permitting requirements administered by the ADEQ Arizona Pollutant Discharge Elimination System (AZPDES):

- **Construction General Permit (CGP)** - <http://www.azdeq.gov/environ/water/permits/cgp.html>
- **Multi-Sector General Permit (MSGP 2010)** - <http://www.azdeq.gov/environ/water/permits/msgp.html>
- **MSGP Fact Sheet** - <http://www.azdeq.gov/environ/water/permits/download/2010/122010e.pdf>

File Notice of Intent (if required),

- **Notice of Intent (NOI)** - <https://az.gov/app/smartnoi/>

----- or -----

File No Exposure Certification (if conditions are met)

- **No Exposure Certification Form** - <http://www.azdeq.gov/environ/water/permits/download/noexcert.pdf>

2.2 Wastewater Discharges from Industrial or Commercial Facilities

Under the Arizona Pollutant Discharge Elimination System (AZPDES) Permit Program, all facilities that discharge pollutants from any point source into waters of the United States (navigable waters and their tributaries) are required to obtain or seek coverage under an AZPDES permit. **NOTE:** This includes industrial/commercial discharges to publicly owned wastewater treatment works (POTWs), commonly known as a municipal sewer.

Activities that may require CWA AZPDES Permit - wastewaters from an industrial or commercial process or property that discharges wastewaters to:

- the Scottsdale municipal sewer
- a surface water (pond, lake, lagoon, arroyo or wash)
- a leach field
- any surface exposed to stormwater

Suggested Advance Action:

Determine if the proposed activity requires any of the following permit application activities.

Reference the following ADEQ website as a starting point -

<http://www.azdeq.gov/environ/water/permits/gen.html#ind>

- **Individual Discharge Permits**

These permits are issued to individual facilities whose operations and pollutant discharges require permit terms and conditions specific to that facility. These operations present a unique list of pollutants, quantities and site conditions that often requires a lengthy period of agency review and collaboration prior to issuance.

- **De Minimis General Permit**

As a less burdensome alternative to individual permits, Arizona's AZPDES regulations authorize the issuance of general permits (Arizona Administrative Code. R18-9-C901) for categories of discharges located within common geographic areas, that:

- Involve the same or substantially similar types of operations;
- Discharge the same types of wastes or engage in the same types of disposal practices;
- Require the same effluent limitations, operating conditions, or standards
- Require the same or similar monitoring; and
- Are more appropriately controlled under a general permit than under an individual permit.

Determine if the proposed activity requires any of the following transactions with the City of Scottsdale's Water Resources Department:

- Written notice of proposed industrial wastewater discharge,
<http://www.scottsdaleaz.gov/Water/Quality/Pretreatment>
- Compliance with the categorical standards, pretreatment requirements, best management practices and any other requirements found in the City Municipal Code at: **Scottsdale Revised Code, Vol 2, Chapter 49 Sec. 161 through 167**
<http://library.municode.com/index.aspx?clientId=10075&stateId=3&stateName=Arizona>

2.3 Discharges to Surface Waters (streams, arroyos, ponds, lakes, washes)

Under the Arizona Pollutant Discharge Elimination System (AZPDES) Permit Program, all facilities that discharge pollutants from any point source into waters of the United States (navigable waters, or ephemeral washes that drain to navigable waters) are required to obtain or seek coverage under an AZPDES permit. For Scottsdale, these waters include the Indian Bend Wash and any conduits to the Salt River, Agua Fria and Verde River. **NOTE:** this may apply to a dry wash that only periodically (under heavy rain fall) discharges to a navigable water way.

Non-municipal sources, including industrial and commercial facilities, are unique with respect to the types of pollutants generated by the facility. Unlike domestic wastewater, the types of raw materials, production processes, treatment technologies and pollutants discharged vary widely and are facility specific. Once a facility submits the appropriate application, ADEQ develops a permit for that particular facility based on the information contained in the permit application such as type of activity, nature of discharge, and receiving water quality.

Arizona Administrative Code, A.A.C. R18-9-B901, requires that applications for new discharges be made no later than 180 days before the actual discharge begins. Similarly, applications for permit renewals (for existing dischargers) must be made at least 180 days prior to the expiration of the existing permit.

Suggested advance actions:

Determine if the scope and implementation of the proposed development action triggers any of the permitting requirements administered by the ADEQ Arizona Pollutant Discharge Elimination System (AZPDES):

ADEQ Water Quality Division - <http://www.azdeq.gov/environ/water/permits/gen.html#ind>

De Minimus Notice of Intent - http://www.azdeq.gov/environ/water/permits/download/notice_of_intent-single.pdf

De Minimus General Permit - http://www.azdeq.gov/environ/water/permits/download/deminimis_general_permit.pdf

De Minimus General Permit FACT SHEET - http://www.azdeq.gov/environ/water/permits/download/deminimis_factsheet-3-2010.pdf

Based upon the above determination, initiate notification and permitting steps, as required. Account for Agency processing time.

2.4 CWA Section 401 - Water Quality Certification

Individuals seeking a CWA Section 404 Permit (Discharge of Dredged Materials; see Sec. 2.5 below) are also required to obtain a Clean Water Act Section 401 Water Quality Certification from the Arizona Department of Environmental Quality (ADEQ).

The CWA 401 Certification can cover both the construction and operation of the proposed project.

Arizona has four action options under the CWA 401 Certification Program: certify, conditional certify, denial, or waiver. If certified, no further CWA 401 review by ADEQ is required. If conditionally certified, state-imposed conditions become part of the permit or license. If denied, the federal agency cannot issue the permit or license. When the state waives certification, it does not act on the application, therefore the federal agency may proceed to issue the permit or license without further ADEQ review.

Activities that require CWA Sec 401 Certification:

Anyone applying for a federal permit to allow discharges of dredged or fill materials to waters of the U.S. **Examples include:**

- Stream crossings;
- Flood control channelization;
- Streambed modification;
- Water diversion for canals and irrigation systems;
- Channel clearing; or
- Filling of wetlands or washes for land development (e.g., Indian Bend Wash).

Suggested Advance Action:

Determine if the proposed development activity requires the 401 Certification.

Acquire and complete an “*Application for Certification Under the Clean Water Act Section 401*” from the ADEQ Water Quality Division website,

<http://www.azdeq.gov/environ/water/permits/cwa401.html>

2.5 CWA Section 404 - Discharge of Dredged Materials

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

The basic premise of the program is that no discharge of dredged or fill material may be permitted if: **(1)** a practicable alternative exists that is less damaging to the aquatic environment, or **(2)** the nation’s waters would be significantly degraded. In other words, when you apply for a permit, you must show that you have, to the extent practicable:

- Taken steps to avoid wetland impacts;
- Minimized potential impacts on wetlands; and
- Provided compensation for any remaining unavoidable impacts.

Proposed activities are regulated through a permit review process administered by the US Army Corps of Engineers (ACOE). A project-specific permit is required for potentially significant impacts. Individual permits are reviewed by the ACOE, which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. However, for most discharges that will have only minimal adverse effects,

a general permit may be suitable. The general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that specific conditions for the general permit are met. For example, minor road activities, utility line backfill, and bedding are activities that can be considered for a general permit.

Activities that require CWA Sec 404 Permit

The following activities that directly affect a wetland, watercourse or body of water may require a Section 404 permit:

- Dredging or discharging fill material for development
- Water resource projects (such as dams, canals and levees)
- Infrastructure development (such as highways and airports)
- Mining or excavation projects

Projects that result in a discharge to a watercourse, such as through fill for construction activities, most likely will require a Section 404 permit. Consult with the US Army Corps of Engineers early in your project planning stage to determine if you have qualified wetlands, watercourses water bodies within its jurisdiction.

Section 401 State Water Quality Certification from ADEQ is required prior to issuance of 404 permits from the Corps. It is important for you to consult with ADEQ early in your project to best incorporate their requirements for certification.

Section 404 individual permit review and approval averages 1 year; nationwide permits average about 3 months, and Letter of Permission (LOP) is a new expedited process anticipated to take about 2 months. Time frames vary due to the complexity of the project and the Corps' workload.

City of Scottsdale requires evidence of compliance with Section 404 prior to approval of development plans. An LOP information packet is available from City of Scottsdale's Development Services Department.

Suggested Advance Actions:

Determine if the proposed development activity requires a Section 404 Permit by researching the following agency sources of information:

- <http://www.azdeq.gov/environ/water/permits/index.html>
- <http://www.azdeq.gov/environ/water/permits/download/nwp.pdf>
- <http://www.spl.usace.army.mil/Missions/Regulatory.aspx>

US Army Corps of Engineers (USACE) Los Angeles District
Regulatory Division
915 Wilshire Blvd.
Los Angeles, CA 90017

USACE - Arizona Branch (602) 230-6949

2.6 Aquifer Protection Permits (APP) - discharge of pollutants to groundwater through dry wells, lagoons, evaporation ponds, or certain containment structures.

You need to obtain an Aquifer Protection Permit, or APP, if your proposed facility or operations will discharge a regulated pollutant either directly to an aquifer, the land surface or the vadose zone (the area between an aquifer and the land surface) in such a manner that there is a reasonable probability that the pollutant will reach an aquifer.

Activities that may require an APP

The following facilities are considered to be "discharging" and require permits, unless exempted, or ADEQ determines that the facility will be designed, constructed and operated so there will be no migration of pollutants directly to the aquifer or to the vadose zone:

- Surface impoundments, pits, ponds, and lagoons
- Solid waste disposal facilities
- Injection wells
- Land treatment facilities
- Facilities adding pollutants to drywells, underground caverns, or mines
- Mine tailings piles and ponds
- Mine leaching operations
- Septic tank systems
- Underground water storage facilities (if wastewater-effluent is used)
- Sewage or wastewater treatment facilities
- Wetlands designed and constructed to treat municipal and domestic wastewater for underground storage

ADEQ issues both general and individual APPs. ADEQ will help you determine if the facility qualifies for a general permit or an exemption upon request.

<u>GROUNDWATER PROTECTION (APP)</u>	<u>MAIN LINE</u>
<u>Aquifer Protection Permits - Drywells, Industrial Facilities and Mines</u>	(602) 771-2322
<u>Aquifer Protection Permits - Municipal & Domestic Wastewater Treatment Facilities and Reuse</u>	(602) 771-4683
<u>Aquifer Protection Permits - Mines</u>	(602) 771-4362
<u>Direct Reuse of Reclaimed Water</u>	(602) 771-4464
<u>Drywell Registrations</u>	(602) 771-4686

Suggested Advance Actions:

Determine if the proposed development activity triggers an APP requirement.

NOTE: the scale and complexity of the APP process (Individual and General Permits; 24 “facility” exemptions; four “class” exemptions; two “activity” exemptions) require professional judgment that is keenly aware of both the engineering details of the proposed development activity, and the APP statutory and regulatory permitting requirements for that activity.

The links and references cited below provide only cursory introduction to information concerning the Aquifer Protection Permit program. The City of Scottsdale strongly recommends advance consultation with the ADEQ Water Quality Division.

- Water Quality Division - APP: <http://www.azdeq.gov/environ/water/permits/app.html>
 - Arizona Revised Statutes §§ 49-241 through 49-252
 - Arizona Administrative Code R18-9-101 through R18-9-403
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3.0 HAZARDOUS MATERIALS STORAGE

Proposed development activities that include the storage and use of hazardous materials (e.g., fuels, compressed gases, caustics, chemical products, pesticides, etc.) must consider the various agency notification, registration, permitting and reporting requirements. These requirements typically depend upon the quantity and relative toxicity of the materials stored.

3.1 Aboveground Storage Tanks

The installation of aboveground fuel storage tanks requires a construction permit from the State Fire Marshall’s Office. This requirement includes an application fee, plan review and field inspection(s).

Office of the State Fire Marshall
1110 WEST WASHINGTON, SUITE 100
PHOENIX, ARIZONA 85007
(602) 364-1003
(602) 364-1052 FAX

<http://www.dfbls.az.gov/ofm/permits.aspx>

3.2 Underground Storage Tanks (USTs)

Arizona Revised Statutes (A.R.S.), Title 49, Chapter 6, Section 49-1002 requires owners of underground storage tanks to notify ADEQ of their USTs on forms prescribed by the Department. The *Notification for Underground Storage Tanks Form* (Notification Form) is designed to serve two purposes: (1) to register USTs located at a specific facility, and (2) to inform ADEQ of any changes (amendments) at an UST facility (e.g. installation, closure, method of release detection, change in ownership, etc.). Owners and operators of USTs are required to notify ADEQ of all changes at a facility within thirty (30) days of that change.

Regulated UST Generally, any UST containing petroleum, flammable liquids or hazardous substances larger than 110 gallons, with the exception of USTs used for on-site heating such as home heating oil USTs, is regulated by ADEQ. All regulated USTs are required to have engineered designs for:

- Corrosion protection (for steel USTs and piping)
- Spill prevention
- Overfill prevention

ADEQ Notification Owners of USTs must complete and submit to ADEQ a *Notification for Underground Storage Tanks Form* for any of the following events:

- Installation of new UST
- Amendment of previous Notification (change in ownership; system modification, etc.)
- Closure of UST

Guidance for completing the Notification Form can be found at:

- <http://www.azdeq.gov/environ/waste/ust/download/guidance.pdf>

Additional information about operating USTs can be obtained by contacting the ADEQ UST Section.

UNDERGROUND STORAGE TANKS

MAIN LINE

Corrective Action	(602) 771-4725
Divisional Support	(602) 771-4286
Financial Responsibility	(602) 771-4110
Leaking UST Enforcement Unit	(602) 771-4849
Inspections & Compliance	(602) 771-4315
Notification	(602) 771-4316
Report a Leaking UST	(602) 771-4289
Service Provider Certification	(602) 771-4316
Technical Guidance & Leaking UST Issues	(602) 771-4192
UST File Review	(602) 771-4344
UST Fees & Taxes	(602) 771-4291

UST Closure As stated above, ADEQ must be informed of plans to permanently (or, temporarily) close a regulated UST. In addition to submitting the referenced Notification Form, UST owners must be able to demonstrate that the UST system did not leak or contribute to soil and/or groundwater contamination. UST owners must submit to ADEQ an *Underground Storage Tank Permanent Closure Assessment Report Form*, with a copy of the State Fire Marshall's Inspection Report attached. This form can be found at:

http://www.azdeq.gov/environ/waste/ust/download/closure_guidance.pdf

3.3 Spill Prevention, Control and Countermeasures (SPCC) Plan

Facilities that plan to store petroleum products in quantities greater than the following amounts are required to develop, certify and implement an SPCC Plan:

- 1,320 gallons aboveground (includes all containers 55 gallons and greater)
- 42,000 gallons underground

The SPCC Plan shall conform to the requirements specified in the Code of Federal Regulations, Part 40 Section 112. A guidance document published by the US Environmental Protection Agency can be found at:

<http://www.epa.gov/osweroe1/docs/oil/spcc/spccbluebroch.pdf>

4.0 HAZARDOUS WASTE

Proponents of new development activities which will generate, store or treat regulated hazardous waste must know and understand the state and federal requirements for its generation, accumulation, transportation, treatment and disposal.

The link below provides access to ADEQ's *Managing Hazardous Waste - A Handbook for Small Businesses* :

<http://www.azdeq.gov/environ/waste/hazwaste/download/managehw.pdf>

This handbook provides useful information in defining hazardous waste; the different generator categories; and the management requirements for each category. ADEQ forms and contact information are also provided.

5.0 RESOURCE CONSERVATION & PROTECTION

The previous four sections addressed legal and regulatory requirements pertaining to the consideration and administration of air, water and general environmental quality standards. This section presents various legal and administrative requirements that pertain to the protection and documentation of cultural and natural resources that may be affected by proposed development activities.

Be advised that the information provided is only a cursory overview, with the primary intent of drawing attention to the governing agencies, their contact information and supporting documentation.

5.1 State Historic Preservation Office (SHPO) and Scottsdale Historic Preservation Commission

The Arizona State Historic Preservation Office: SHPO, a division of Arizona State Parks, assists private citizens, private institutions, local governments, tribes, and state and federal agencies in the identification, evaluation, protection, and enhancement of historic and archaeological properties that have significance for local communities, the State of Arizona, or the Nation. The role and function of the SHPO is defined in both state law (Arizona Historic Preservation Act) and federal law (National Historic Preservation Act, as amended). Activities of the SHPO include:

- Statewide survey to identify and evaluate historic structures and archaeological sites;
- Nomination of eligible historic and archaeological properties to the National Register of Historic Places; <http://www.nps.gov/nr/>
- Review of federal and state actions that may affect historic and archaeological properties;
- Technical assistance to owners of historic properties;
- Technical assistance to Certified Local Governments/local preservation commissions

Suggested Advance Actions:

Determine if the proposed development activity affects an historic property or cultural resource and requires consultation with SHPO.

<http://azstateparks.com/SHPO/index.html>

ftp://ftp-fc.sc.egov.usda.gov/AZ/cultural_resources/State_handbook1.pdf

Determine if the proposed development activity affects an historic structure, district or cultural resource - as designated by the City of Scottsdale's Historic Preservation Commission.

<http://www.scottsdaleaz.gov/codes/historiczoning/ord3242>

<http://www.scottsdaleaz.gov/historiczoning/historicregister>

<http://www.scottsdaleaz.gov/historiczoning/historicresources>

Proponents of development activities may want to consult with the City of Scottsdale's Historic Preservation Officer concerning the following administrative requirements, as applicable:

- Historic Property District designation
- Historic Properties Certificate of Appropriateness
- Archeological Certificate of No Effect
- Archeological Resources Certificate of Approval

5.2 Arizona Antiquities Act

Archaeological investigations are required for developmental projects in the State of Arizona whenever there is state or federal funding, permitting, or licensing. In the state of Arizona, most archaeological materials 50 years of age or older have the potential to exhibit historic significance according to the criteria established for listing on the National Register of Historic Places, or the Arizona Register of Historic Places. Archaeological sites are considered a “Historic Property” if they are eligible for the National or Arizona Registers.

Archaeological materials have the following definitions:

State Historic Preservation Office: Ruins and material remains from past human activities or cultures from the Paleo-Indian, Archaic, Prehistoric, or Historic periods.

Scottsdale Historic Preservation Ordinance No. 3242: Archaeological resources means any material remains of past human life or activities which are at least fifty (50) years old and of historic or pre-historic significance. Such materials include, but are not limited to petroglyphs, pictographs, paintings, ornaments, jewelry, textiles, ceremonial objects, armaments, vessels, ships, vehicles, human skeletal remains, rock art, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, water-control devices, pit houses, rock paintings, rock carvings, intaglios, graves, personal items and clothing, household or business refuse, printed matter, manufactured items, or any piece of any of the forgoing items.

Suggested Advance Actions:

Determine if the proposed development activity affects (or, may affect) archeological materials or resources.

Any organization, institution, corporation, or person entering onto state, county, or municipal land to conduct archaeological or paleontological survey, testing, excavation, or monitoring will apply for a permit from the director of the Arizona State Museum.

Permits Office
Arizona State Museum
The University of Arizona
1013 East University
Tucson 85721-0026

(520) 621-2096

http://www.statemuseum.arizona.edu/crservices/download_init.php?f=rules_41_841_et_seq.pdf

5.3 The Native American Graves Protection and Repatriation Act of 1990

Arizona Revised Statutes (41-844 and 865) strictly regulates the removal and disposition of human remains and their associated grave goods, both on private and public property within the City. Be advised that during development activity (e.g., site excavation or construction), the discovery of archeological artifacts or human remains requires an immediate cessation of the affected activity, and proper reporting to the Arizona State Museum. To quote:

“A person in charge of any survey, excavation, construction or other like activity on any lands owned or controlled by this state, by any public agency or institution of the state, or by any county or municipal corporation within the state shall report promptly to the director of the Arizona state museum the existence of any archaeological, paleontological or historical site or object that is at least fifty years old and that is discovered in the course of such survey, excavation, construction or other like activity and, in consultation with the director, shall immediately take all reasonable steps to secure and maintain its preservation.”

<http://www.azleg.state.az.us/ars/41/00844.htm>

5.4 Environmentally Sensitive Land Ordinance (ESLO)

The Environmentally Sensitive Lands Ordinance is a set of zoning regulations adopted by the City Council in 1991 (latest amendment, March 2007) to guide development throughout the 134 square miles of desert and mountain areas of Scottsdale. These areas are located north and east of the Central Arizona Project canal.

The intent and purpose of the ESLO is to identify and protect environmentally sensitive lands in the City and to promote public health and safety by controlling development on these lands. The ordinance requires that a percentage of each property be permanently preserved as natural area open space and that specific environmental features - including vegetation, washes, mountain ridges and peaks - be protected from inappropriate development.

Suggested Advance Actions:

Determine if the proposed development activity is located within the areas governed by the ESLO. If so, determine if the proposed activities require conformance with ESLO codes and design standards.

<http://www.scottsdaleaz.gov/codes/eslo>

<http://www.scottsdaleaz.gov/Assets/Public+Website/codes/ESLOCodeText.pdf>

5.5 Natural Area Open Space (NAOS)

In the Environmentally Sensitive Lands Ordinance (ESLO; Sec. 5.4), there are requirements for providing open space on each parcel. Natural Area Open Space areas are either natural desert that has been undisturbed by development activity or where development has restored the desert terrain and vegetation to its natural condition. The amount of NAOS required to be set aside with each development is based upon two factors -- the landform area and land slopes.

<http://www.scottsdaleaz.gov/codes/eslo/naos>

5.6 Arizona Native Plant Law

Many of Arizona's native plants are protected by law. The Arizona Native Plant Law was enacted to protect rare plant species and to protect some species from being over harvested. These protected plants may not be removed from any lands, whether private or public, without the permission of the land owner and a permit from the Arizona Department of Agriculture. While land owners do have the right to remove native plants on their land, there is a process that must be followed. Protected species notification must be given to the Arizona Department of Agriculture and a permit must be issued prior to removal.

Suggested Advance Actions:

Determine if the proposed development activity requires the removal or relocation of designated native plants. If so, determine if notification and permit(s) are required with either Arizona Department of Agriculture, or the City of Scottsdale's Development Services.

<http://www.azda.gov/esd/NativePlants.aspx>

<https://agriculture.az.gov/programs-and-services/native-plants>

<http://www.scottsdaleaz.gov/codes/nativeplant>

The City of Scottsdale also requires a permit prior to physically disturbing a protected native plant, per the Code of Ordinances, Vol II, Chapter 46, Articles V (**46-106**):

No person shall destroy, mutilate, remove from the premises, or relocate to another place on the premises any protected native plant existing within the city without first obtaining a native plant permit from the city according to the terms of this article.

<http://library.municode.com/index.aspx?clientId=10075&stateId=3&stateName=Arizona>

- **Volume II, Chapter 46, Planning, Development and Fees; Sections 46-105 thru 120**
- **Volume II, Appendix B, Basic Zoning Ordinances; Sections 7.500 thru 7.506**