UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 23 2016

Trevor Baggiore
Director
Water Quality Division
Arizona Department of Environmental Quality (ADEQ)
1110 West Washington Street
Phoenix, Arizona 85007-2952

Dear Mr. Baggiore:

The United States Environmental Protection Agency (EPA) has reviewed ADEQ's amendments to the Arizona Administrative Code (A.A.C.), Title 18, Chapter 11, Article 1, Water Quality Standards (WQS) for Surface Waters. ADEQ filed a Notice of Final Rulemaking (NFRM) with the Arizona Secretary of State on August 2, 2016. The proposed amendments were approved by the Arizona Governor's Regulatory Review Council on August 2, 2016. ADEQ transmitted the revisions to the EPA by letter dated August 31, 2016: supplemental technical information was received by the EPA on September 21, 2016. In accordance with 40 CFR §131.6(e), the EPA considered the state's submittal complete when the Arizona Attorney General certification was received on October 25, 2016. The EPA is approving and disapproving certain parts of ADEQ's amendments as detailed below.

New and Revised Standards that Are Approved by the EPA

The EPA has identified new and revised standards listed below which are consistent with 40 CFR Part 131 and Section 303 of the CWA. Therefore, per Section 303(c) of the CWA, the EPA is approving the new and revised WQS in the following sections:

- R18-11-106. Net Ecological Benefit
- R18-11-109. Numeric Water Quality Standards
- R18-11-110. Salinity Standards for the Colorado River
- R18-11-112. Outstanding Arizona Waters
- R18-11-115. Site-Specific Standards: only (B)(1), (B)(4), (B)(6), and (C)
- R18-11-121. Schedules of Compliance
- Appendix A. Numeric Water Quality Standards
- Appendix B. Surface Waters and Designated Uses
- Appendix C. Site-Specific Standards: only Site-Specific Standards for Pinto Creek

The amendments also included revisions to formatting, definitions, and errors that are non-substantive and are not new or revised WQS and are therefore not subject to EPA review and approval. The revisions listed above meet the requirements of the CWA and 40 CFR Part 131 and are approved by the EPA pursuant to section 303(c) of the Act.

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New and Revised Standards that are Disapproved by the EPA

The EPA has identified new and revised standards which are not consistent with 40 CFR Part 131 and Section 303 of the CWA. The "Natural Adaptive" clause at R18-11-115(B)(5) adopted by Arizona is not scientifically defensible nor consistent with 40 CFR §131 and the CWA. Pursuant to 40 CFR §131.21(e), with this disapproval, Arizona's previous WQS remain in effect for all CWA purposes. Additionally, the site-specific copper criteria in Appendix C for Bright Angel Wash and Transept Canyon adopted by Arizona are not scientifically defensible nor consistent with 40 CFR §131 and the CWA. Pursuant to 40 CFR §131.21(e), with this disapproval, Arizona's previous copper water quality criterion remains in effect for all CWA purposes.

Revisions that Are Not New or Revised Water Quality Standards Subject to the EPA's Approval Action

The new or revised water quality standards under consideration include designated uses of the navigable waters involved and the water quality criteria based upon such uses. EPA's action only concerns such uses and criteria and whether they are consistent with Section 303(c) of the CWA. This decision is not a determination as to the scope of federal jurisdiction over any waters of the United States or any affirmation of State opinions regarding federal jurisdiction over such waters. Separately, there are revisions of an editorial nature or that reflect corrections of inaccurate information. These revisions do not have a substantive effect on the intent or meaning of the provisions and do not alter the effectiveness of the standards, either individually or when taken as a whole. Therefore, the EPA is not acting on these revisions under CWA 303(c) authorities.

Public Participation

Public involvement is an integral component of a successful water quality program and the EPA notes that the State included the public in the triennial review. ADEQ published a Notice of Proposed Rulemaking and solicited public comments from February 19, 2016 to April 6, 2016, and held a public hearing on April 6, 2016. ADEQ prepared a response to comments, amended the text of some of the proposed rules, and filed the Notice of Final Rulemaking with the Arizona Secretary of State on August 2, 2016. The public review procedures followed by the State in the development of the proposed rules were consistent with the procedural requirements for public participation in triennial review, adoption, and revision of state WQS.

Endangered Species Act Consultation

Section 7(a) of the Endangered Species Act (ESA) states that each Federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. The EPA has determined that today's action will have no effect on any ESA-listed species or critical habitat. The EPA has prepared a No Effects determination as a part of its administrative record for this action.

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Summary

The revisions to Arizona WQS approved by the EPA are now in effect for all purposes of the CWA. The EPA commends you and your staff for your continued efforts to protect and enhance state waters during this triennial review. We appreciate Arizona's efforts throughout the WQS development process. If you have any questions, please call me at (415) 972-3337 or your staff may contact Stephen Maurano at (415) 972-3477.

Sincerely,

Tomás Torres 12/23/2016
Director, Water Division

Enclosure

cc: Krista Osterberg, Section Manager, ADEQ Surface Water Section

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