AGENDA for Briefing on
Options for EPA Approval of a State 404 Program with a Subsequent Effective Date
November 21, 2019, 4 – 4:30 PM

Overview of Issue and Factual Background:

- **Issue:** Could EPA approve a complete submission from Arizona DEQ ("ADEQ") requesting authorization to administer the CWA § 404 program, but provide that the program would not become effective until date or event e.g., State provides notice that it is ready to administer the program?

- **Factual Background:** Arizona passed legislation in 2018 authorizing ADEQ to promulgate rules to prepare to assume the CWA § 404 program. The State anticipates submitting a package to EPA requesting authorization to administer the CWA § 404 program by August 2020, which would require EPA to determine whether to approve their program by December 2020, barring a mutually agreed-upon extension.

  ADEQ does not currently operate a dredge and fill permitting program. The State wants to know if they can have additional time, on the order of a few months to a year, following EPA's potential approval, to complete hiring and stand up their new program before they take over permitting from the Army Corps of Engineers. ADEQ has stated that it would like to wait until EPA's approval is certain before expending significant resources to establish their program, but has not identified the specific actions they will need to take between approval and implementation, or the exact amount of time required. Other states, including Oregon, have also inquired about EPA's ability to set a later effective date.

Presentation and Discussion of Options:

- Ex. 5 Deliberative Process (DP)

Next Steps