



REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

NPDES Permit No NM0031011

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"),

Pueblo of San Felipe
San Felipe Pueblo WWTP
P.O. Box 4219
San Felipe Pueblo, NM 87001

is authorized to discharge from a facility located 76 Taos Road, San Felipe Pueblo, in Sandoval County, New Mexico. The discharge goes into San Felipe Eastside Ditch, an intermittent tributary of Rio Grande River (Segment 20.6.4.110 of the Rio Grande Basin), from a point located approximately.

Outfall 001: Latitude 35° 23' 60" North and Longitude 106° 27' 0" West

in accordance with this cover page and the effluent limitations, monitoring requirements, and other conditions set forth in Part I, Part II, Part III, and Part IV hereof.

This permit supersedes and replaces NPDES Permit No. NM0031011 issued on

This permit, prepared by Aron K. Korir, Physical Scientist, Permitting Section (6WD-PE), shall become effective on

This permit and the authorization to discharge shall expire at midnight,

Issued on

Troy C. Hill, P.E
Director
Water Division (6WD)

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

| | |
|-------|--|
| 4Q3 | Lowest four-day average flow rate expected to occur once every three-years |
| BAT | Best available technology economically achievable |
| BCT | Best conventional pollutant control technology |
| BPT | Best practicable control technology currently available |
| BMP | Best management plan |
| BOD | Biochemical oxygen demand (five-day unless noted otherwise) |
| BPJ | Best professional judgment |
| CBOD | Carbonaceous biochemical oxygen demand (five-day unless noted otherwise) |
| CD | Critical dilution |
| CFR | Code of Federal Regulations |
| cfs | Cubic feet per second |
| COD | Chemical oxygen demand |
| COE | United States Corp of Engineers |
| CWA | Clean Water Act |
| DMR | Discharge monitoring report |
| ELG | Effluent limitation guidelines |
| EPA | United States Environmental Protection Agency |
| ESA | Endangered Species Act |
| FCB | Fecal coliform bacteria |
| FWS | United States Fish and Wildlife Service |
| mg/l | Milligrams per liter |
| ug/l | Micrograms per liter |
| lbs | Pounds |
| MGD | Million gallons per day |
| NMAC | New Mexico Administrative Code |
| NMED | New Mexico Environment Department |
| NMIP | New Mexico NPDES Permit Implementation Procedures |
| NMWQS | New Mexico State Standards for Interstate and Intrastate Surface Waters |
| NPDES | National Pollutant Discharge Elimination System |
| SQL | Minimum quantification level |
| O&G | Oil and grease |
| POTW | Publicly owned treatment works |
| PFAS | Per- and Polyfluoroalkyl Substances |
| PPWQS | Pueblo of Pojoaque Water Quality Standards |
| PTWQS | Pueblo of Tesuque Water Quality Standards |
| RP | Reasonable potential |
| SS | Settleable solids |
| SIC | Standard industrial classification |
| s.u. | Standard units (for parameter pH) |
| SWQB | Surface Water Quality Bureau |
| TDS | Total dissolved solids |
| TMDL | Total maximum daily load |
| TRC | Total residual chlorine |
| TSS | Total suspended solids |
| UAA | Use attainability analysis |
| USGS | United States Geological Service |
| WLA | Wasteload allocation |
| WET | Whole effluent toxicity |
| WQCC | New Mexico Water Quality Control Commission |
| WQMP | Water Quality Management Plan |
| WWTP | Wastewater treatment plan |

PART I – REQUIREMENTS FOR NPDES PERMITS**A. LIMITATIONS AND MONITORING REQUIREMENTS****1. OUTFALL 001 - FINAL Effluent Limits – 0.6 MGD**

During the period beginning the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge treated domestic wastewater from Outfall 001 to San Felipe Eastside Ditch, thence to Rio Grande River. Such discharges shall be limited and monitored by the permittee as specified below:

| POLLUTANT | DISCHARGE LIMITATIONS MINIMUM | DISCHARGE LIMITATIONS MAXIMUM | MEASUREMENT FREQUENCY | SAMPLE TYPE |
|-----------|----------------------------------|----------------------------------|--------------------------|-------------------------|
| pH | 6.6 s.u. | 9.0 s.u. | Weekly | Instantaneous Grab (*5) |

| POLLUTANT | 30-DAY AVG, lbs/day, unless noted | 7-DAY AVG lbs/day, unless noted | 30-DAY AVG mg/l, unless noted (*1) | 7-DAY AVG mg/l, unless noted (*1) | DAILY MAX mg/l, unless noted (*1) | MEASUREMENT FREQUENCY | SAMPLE TYPE |
|-------------------------------------|---|---------------------------------------|--|---|---|--------------------------|----------------------------|
| Flow | Report MGD | Report MGD | N/A | N/A | N/A | Continuous | Instantaneous Grab |
| BOD ₅ , Influent | N/A | N/A | Report | N/A | N/A | Monthly | Grab |
| BOD ₅ | 150 | 225 | 30 | 45 | N/A | Weekly | 3-hr Composite |
| BOD ₅ % removal, minimum | ≥85 (*2) | N/A | N/A | N/A | N/A | Monthly | Calculation |
| TSS, Influent | N/A | N/A | Report | N/A | N/A | Monthly | Grab |
| TSS | 150 | 225 | 30 | 45 | N/A | Weekly | 3-hr Composite |
| TSS % removal, minimum | ≥85 (*2) | N/A | N/A | N/A | N/A | Monthly | Calculation |
| E. coli bacteria | NA | N/A | 50 (cfu/100 ml) | N/A | 160 STV (*3) (cfu/100 ml) | Weekly | Grab |
| TRC | N/A | N/A | N/A | N/A | 11 ug/l (*4) | 5/week (*4) | Instantaneous Grab (*5) |
| DO | N/A | N/A | N/A | N/A | 6 (minimum) | Weekly | Instantaneous Grab (*5) |
| Phosphorus, total | N/A | N/A | N/A | N/A | Reports | Quarterly | 3-hr Composite |
| Nitrogen, total (*8) | N/A | N/A | N/A | N/A | Reports | Quarterly | 3-hr Composite |

| WHOLE EFFLUENT TOXICITY TESTING 48-HR ACUTE NOEC FRESHWATER (*7) | NOEC | MEASUREMENT FREQUENCY (*6) | SAMPLE TYPE |
|--|--------|----------------------------|-----------------|
| Daphnia pulex | Report | Once/year | 24-hr composite |
| Pimephales promelas | Report | Once/year | 24-hr composite |

Footnotes:

*1 See **Appendix A of Part II** of the permit for minimum quantification limits.

*2 Percent removal is calculated using the following equation:

$$\text{Percent removal} = \frac{\text{average monthly influent concentration } \left(\frac{\text{mg}}{\text{L}}\right) - \text{average monthly effluent concentration } \left(\frac{\text{mg}}{\text{L}}\right)}{\text{average monthly influent concentration } \left(\frac{\text{mg}}{\text{L}}\right)} \times 100$$

*3 The STV (statistical threshold value) approximates the 90th percentile of the water quality distribution and is intended to be a value that should not be exceeded by more than 10% of the samples used to calculate the geometric mean. When less than 5 samples are collected in a 30-day period, no single sample shall exceed STV.

*4 The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. Tested when chlorine is used as either backup bacteria control or when disinfection of plant treatment equipment is required.

*5 Analyzed within 15 minutes of collection.

*6 The tests shall take place between November 1 and April 30. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple failures. However, upon failure of any WET test, the permittee must report the results to EPA, NMED and Santa Ana Pueblo in writing within 5 business days of notification of the test failure. EPA, NMED and Santa Ana Pueblo will review the test results and determine the appropriate action necessary, if any.

*7 Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements for additional WET monitoring and reporting conditions.

*8 Total Nitrogen (TN) is the sum of TKN (Total Kjeldahl Nitrogen) and nitrite plus nitrate (NO₂ + NO₃).

3. FLOATING SOLIDS, VISIBLE FOAM AND/OR OILS

There shall be no discharge of floating solids or visible foam in other than trace amounts.

There shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

4. SAMPLE LOCATION

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the final treatment unit prior to the receiving stream. The sample point shall be clearly marked by the facility if it is not at the final outfall location. There shall be no flow from any source into the piping system after the sample point and prior to the final outfall.

B. SCHEDULES OF COMPLIANCE

None

C. MONITORING AND E-REPORTING (MINOR DISCHARGERS)

Applicable reports (DMRs, Biosolids/Sewage Sludge, Sewer Overflow/Bypass Event Pretreatment Program) shall be electronically reported to EPA at <https://cdx.epa.gov/>. The permittee may seek a waiver from electronic reporting or until approved for electronic reporting, the permittee shall first submit an electronic reporting waiver request to: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-7179. If paper reporting is granted, the permittee shall submit reports on paper in accordance with signature and certification as required by Part III.D.11, and all other reports required by Part III.D. to the EPA and copies to NMED (under Part III.D.4 of the permit).

| Applicable e-Reporting Program | e-Reporting Compliance Date | Reporting Frequency |
|--|-----------------------------|---------------------|
| DMRs | Permit effective date | Quarterly |
| Biosolids/Sewage Sludge Report | Permit effective date | Quarterly |
| Sewer Overflow/Bypass Event Reports and Anticipated Bypass Notices | By 21 December 2025 | Quarterly |

Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at:

https://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-6468. If paper reporting is granted temporarily, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and NMED as required (See Part III.D.IV of the permit) and copies to Santa Ana Pueblo at the addresses below. Reports shall be submitted quarterly.

- a. Pueblo of Santa Ana

Environmental and Natural Resources Department
2 Dove Rd.
Santa Ana Pueblo, NM 87004
Ph.: 505-771-6700

Monitoring information shall be on Discharge Monitoring Report Form(s) EPA 3320-1 as specified in Part III.D.4 of this permit and shall be submitted quarterly. Each quarterly submittal shall include separate forms for each month of the reporting period.

1. Reporting periods shall end on the last day of the months March, June, September, and December.
2. The permittee is required to submit regular monthly reports as described above postmarked no later than the 28th day of the month following each reporting period.
3. NO DISCHARGE REPORTING: If there is no discharge at Outfall 001 during the sampling month, place an "X" in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report
4. If any 7-day average or daily maximum value exceeds the effluent limitations specified in Part I.A, the permittee shall report the excursion in accordance with the requirements of Part III.D.
5. Any 30-day average, 7-day average, or daily maximum value reported in the required Discharge Monitoring Report which is in excess of the effluent limitation specified in Part I.A shall constitute evidence of violation of such effluent limitation and of this permit.
6. Other measurements of oxygen demand (e.g., TOC and COD) may be substituted for five-day Biochemical Oxygen Demand (BOD₅) or for five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), as applicable, where the permittee can demonstrate long-term correlation of the method with BOD₅ or CBOD₅ values, as applicable. Details of the correlation procedures used must be submitted and prior approval granted by the permitting authority for this procedure to be acceptable. Data reported must also include evidence to show that the proper correlation continues to exist after approval.
7. No discharge reporting: If there is no discharge at Outfall 001 during the sampling month, place an X in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.

D. OVERFLOW REPORTING

The permittee shall report all overflow/bypass via the website with the compliance date mentioned above. If the reports on paper are submitted before the compliance date, these reports shall be summarized and reported in tabular format. The summaries shall include: the date, time, duration, location, estimated volume, and cause of the overflow; observed environmental impacts from the overflow; actions taken to address the overflow; and ultimate discharge location if not contained (e.g., storm sewer system, ditch, tributary).

Overflow/bypass that endanger health or the environment shall be orally reported to EPA (Part III.D.7), and the NMED Surface Water Quality Bureau at (505) 827-0187 or SWQ.Reporting@env.nm.gov (email preferred), within 24 hours from the time the permittee becomes aware of the circumstance. A written report of overflows that endanger health or the environment shall be provided to EPA, Santa Ana Pueblo and the NMED Surface Water Quality Bureau within 5 days of the time the permittee becomes aware of the circumstance.

E. POLLUTION PREVENTION REQUIREMENTS

The permittee shall institute a program within 12 months of the effective date of the permit (or continue an existing one) directed towards optimizing the efficiency and extending the useful life of the facility. The permittee shall consider the following items in the program:

- a. The influent loadings, flow and design capacity;
- b. The effluent quality and plant performance;
- c. The age and expected life of the wastewater treatment facility's equipment;
- d. Bypasses and overflows of the tributary sewerage system and treatment works;
- e. New developments at the facility;
- f. Operator certification and training plans and status;
- g. The financial status of the facility;
- h. Preventative maintenance programs and equipment conditions and;
- i. An overall evaluation of conditions at the facility.

F. ADDITIONAL POLLUTANT SCAN

The permittee shall submit test results of per-and polyfluoroalkyl substances (PFAS) during the permit term as follows:

| Parameter ⁶ | Test Result | Measurement Frequency ⁵ | Sample type |
|--|--------------------------|------------------------------------|-------------------|
| PFAS Analytes ¹ , effluent | Report ng/L ² | Three/Term | Grab |
| PFAS Analytes ¹ , influent | Report ng/L ² | Three/Term | Grab |
| PFAS Analytes ¹ , sewage sludge | Report ng/g ³ | Three/Term | Grab ⁴ |

Footnotes:

1. Listed in attached Appendix B of Part II.

2. Report in nanograms per liter (ng/L). This reporting requirement for the 40 PFAS parameters takes effect on the effective date of the authorization to discharge under the permit. Until there is an analytical method approved in 40 CFR Part 136 for PFAS in wastewater, monitoring shall be conducted using Method 1633. The Adsorbable Organic Fluorine CWA wastewater method 1621 can be used in conjunction with Method 1633, if appropriate.

Additionally, report in NetDMR the results of all 40 PFAS analytes required to be tested as part of the method as shown in Appendix B of Part II.

3. Report in nanograms per gram (ng/g). This reporting requirement for the 40 PFAS parameters takes effect on the effective date of the authorization to discharge under the permit. Until there is an analytical method approved in 40 CFR Part 136 for PFAS in sludge, monitoring shall be conducted using Method 1633. The Adsorbable Organic Fluorine CWA wastewater method 1621 can be used in conjunction with Method 1633, if appropriate.

Additionally, report in NetDMR the results of all 40 PFAS analytes required to be tested as part of the method, as shown in Appendix B of Part II.

4. Sludge sampling shall be as representative as possible based on guidance found at <https://www.epa.gov/sites/production/files/2018-11/documents/potw-sludge-sampling-guidance-document.pdf>.
5. PFAS Analysis data should be submitted annually to NMED at SWQ.Reporting@env.nm.gov and NMENV-PFAS-DATA@env.nm.gov. The data submittal should include the electronic data deliverable and sampling narrative report provided by the analytical laboratory used to complete the analysis.
6. Samples shall be collected and analyzed in separate calendar years.

PART II - OTHER CONDITIONS**A. MINIMUM QUANTIFICATION LEVEL (MQL)**

EPA-approved test procedures (methods) for the analysis and quantification of pollutants or pollutant parameters, including for the purposes of compliance monitoring/DMR reporting, permit renewal applications, or any other reporting that may be required as a condition of this permit, shall be sufficiently sensitive. A method is "sufficiently sensitive" when (1) the method minimum level (ML) of quantification is at or below the level of the applicable effluent limit for the measured pollutant or pollutant parameter; or (2) if there is no EPA-approved analytical method with a published ML at or below the effluent limit (see table below), then the method has the lowest published ML (is the most sensitive) of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapters N or O, for the measured pollutant or pollutant parameter; or (3) the method is specified in this permit or has been otherwise approved in writing by the permitting authority (EPA Region 6) for the measured pollutant or pollutant parameter. The Permittee has the option of developing and submitting a report to justify the use of matrix or sample-specific MLs rather than the published levels. Upon written approval by EPA Region 6 the matrix or sample-specific MLs may be utilized by the Permittee for all future Discharge Monitoring Report (DMR) reporting requirements.

Current EPA Region 6 minimum quantification levels (MQLs) for reporting and compliance are provided in Appendix A of Part II of this permit. The following pollutants may not have EPA approved methods with a published ML at or below the effluent limit, if specified:

| POLLUTANT | CAS Number | STORET Code |
|-------------------------|------------|-------------|
| Total Residual Chlorine | 7782-50-5 | 50060 |
| Cadmium | 7440-43-9 | 01027 |
| Silver | 7440-22-4 | 01077 |
| Thallium | 7440-28-0 | 01059 |
| Cyanide | 57-12-5 | 78248 |
| Dioxin (2,3,7,8-TCDD) | 1764-01-6 | 34675 |
| 4, 6-Dinitro-0-Cresol | 534-52-1 | 34657 |
| Pentachlorophenol | 87-86-5 | 39032 |
| Benzidine | 92-87-5 | 39120 |
| Chrysene | 218-01-9 | 34320 |
| Hexachlorobenzene | 118-74-1 | 39700 |
| N-Nitrosodimethylamine | 62-75-9 | 34438 |
| Aldrin | 309-00-2 | 39330 |
| Chlordane | 57-74-9 | 39350 |
| Dieldrin | 60-57-1 | 39380 |
| Heptachlor | 76-44-8 | 39410 |
| Heptachlor epoxide | 1024-57-3 | 39420 |
| Toxaphene | 8001-35-2 | 39400 |

Unless otherwise indicated in this permit, if the EPA Region 6 MQL for a pollutant or pollutant parameter is sufficiently sensitive (as defined above) and the analytical test result is less than the MQL, then a value of zero (0) may be used for reporting purposes on DMRs. Furthermore, if the EPA Region 6 MQL for a pollutant or parameter is not sufficiently sensitive, but the analytical test result is less than the published ML from a sufficiently sensitive method, then a value of zero (0) may be used for reporting purposes on DMRs.

B. CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

1. The following pollutants may not be introduced into the treatment facility:
 - i) Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;
 - ii) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works are specifically designed to accommodate such discharges;
 - iii) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference;
 - iv) Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
 - v) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
 - vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 - vii) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
 - viii) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
2. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Act, including any requirements established under 40 CFR Part 403.
3. The permittee shall provide adequate notice of the following:

- i) Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Act if it were directly discharging those pollutants.
- ii) Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.
- iii) Any notice shall include information on (i) the quality and quantity of effluent to be introduced into the treatment works, and (ii) any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

C. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.7.b.(3) of this permit, violations of daily maximum limitations for the following pollutants shall be reported orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas, Santa Ana Pueblo and concurrently to New Mexico Environment Department at (505) 827-0187 or SWQ.Reporting@env.nm.gov (email preferred) as soon as possible, but within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

DO, TRC and E. coli Bacteria.

D. PERMIT MODIFICATION AND REOPENER

In accordance with [40 CFR Part 122.44(c)], the permit may be reopened and modified during the life of the permit if relevant portions of PSWQS or NMWQS are revised, or new State water quality standards are established and/or remanded by New Mexico Water Quality Control Commission, respectively.

In accordance with [40 CFR Part 122.62(a)(2)], the permit may be reopened and modified if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance. Permit modifications shall reflect the results of any of these actions and shall follow regulations listed at [40 CFR Part 124.5].

E. WHOLE EFFLUENT TOXICITY TESTING (48-HR ACCUTE NOEC FRESHWATER)

It is unlawful and a violation of this permit for a permittee or his designated agent, to manipulate test samples in any manner, to delay sample shipment, or to terminate or to cause to terminate a toxicity test. Once initiated, all toxicity tests must be completed unless specific authority has been granted by EPA Region 6 or the State NPDES permitting authority.

1. Scope and Methodology

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

| | |
|---------------------------------|-----|
| APPLICABLE TO FINAL OUTFALL(S): | 001 |
|---------------------------------|-----|

| | |
|-------------------------------|-----------------------------|
| REPORTED AS FINAL OUTFALL: | 001 |
| CRITICAL DILUTION (%): | 100% |
| EFFLUENT DILUTION SERIES (%): | 32%, 42% 56%, 75%, and 100% |
| COMPOSITE SAMPLE TYPE: | Defined at PART I |
| TEST SPECIES/METHODS: | 40 CFR Part 136 |

Daphnia pulex acute static renewal 48-hour definitive toxicity test using EPA 821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

Pimephales promelas (Fathead minnow) acute static renewal 48-hour definitive toxicity test using EPA 821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Lethal Effect Concentration) is defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Acute test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution.
- c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.
- d. Test failure is defined as a demonstration of statistically significant lethal effects to a test species at or below the effluent critical dilution.
- e. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple test failures. However, upon failure of any WET test, the permittee must report the test results to EPA and cc NMED, in writing, within 5 business days of notification the test failure. EPA will review the test results and determine the appropriate action necessary, if any.

2. REQUIRED TEST CONDITIONS AND TEST ACCEPTABILITY CRITERIA

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

| Condition/Criteria | <i>Daphnia pulex</i> | <i>Pimephales promelas</i> |
|-----------------------------------|----------------------|----------------------------|
| # of replicates per concentration | 4 | 2 |
| # of organisms per replicate | 5 | 10 |
| # or organisms per concentration | 20 | 20 |

| | | |
|---------------------------------------|--|---|
| # of test concentrations per effluent | 5 and a control | 5 and a control |
| Holding time * | 36 hours for first use | 36 hours for first use |
| Test Acceptability Criteria | ≥90% survival of all control organisms. | ≥90% survival of all control organisms. |
| Coefficient of Variation ** | 40% or less, unless significant effects are exhibited. | 40% or less unless significant effects are exhibited. |

* If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples and the minimum number of effluent portions are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent, and must meet the holding time between collection and first use of the sample. When possible, the effluent samples used for the toxicity tests shall be collected on separate days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 3 of this section.

**Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%, or a PMSD value greater than the higher value on the range provided.

a. Statistical Interpretation

The statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in the appropriate method manual listed in Part II or the most recent update thereof.

b. Dilution Water

- 1) Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
 - i. toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - ii. toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- 2) If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

- i. a synthetic dilution water control which fulfills the test acceptance requirements was run concurrently with the receiving water control;
- ii. the test indicating receiving water toxicity has been carried out to completion,
- iii. the permittee includes all test results indicating receiving water toxicity with the full report and information required; and
- iv. the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

c. Samples and Composites

1. The permittee shall collect two samples (flow-weighted composite if possible) from the outfall(s).
2. The permittee shall collect a second sample (composite samples if possible) for use during the 24-hour renewal of each dilution concentration for each test. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 36 hours for first use of the sample. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage. A holding time up to 72 hours is allowed upon notification to EPA and NMED of the need for additional holding time.
3. The permittee must collect the composite samples such that the effluent samples are representative of the discharge duration, and of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.

3. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this part in accordance with the Report Preparation Section of the most current publication of the method manual, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report and submit them upon the specific request of the Agency. For any test which fails, is considered invalid, or which is terminated early for any reason, the full report must be submitted for agency review.
- b. A valid test for each species must be reported during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. One set of biomonitoring data for each species is to be recorded on the DMR for each reporting period. Additional results are reported under the retest codes below.
- c. The permittee shall submit the results of each valid toxicity test on the subsequent monthly DMR for that reporting period as follows below. Submit retest information clearly marked as

such with the following month's DMR. Only results of valid tests are to be reported on the DMR.

| Reporting Requirement | Parameter STORET CODE | |
|--|-----------------------|----------------------------|
| | <i>Daphnia pulex</i> | <i>Pimephales promelas</i> |
| Enter a "1" if the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, otherwise enter a "0". | TEM3D | TEM6C |
| Report the NOEC value for survival | TOM3D | TOM6C |
| Report the highest (critical dilution or control) Coefficient of Variation | TQM3D | TOM6C |
| (If required) Retest 1 – Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0". | 22418 | 22415 |
| (If required) Retest 2- Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0". | 22419 | 22416 |
| (If required) Retest 3- Enter a "1" if the NOEC for survival is less than the critical dilution, otherwise enter "0". | 51444 | 51443 |