

NPDES PERMIT NO. NM0030112 RESPONSE TO COMMENTS

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT 40 CFR 124.17

APPLICANT: State of New Mexico Department of Game & Fish
Seven Springs State Fish Hatchery
1 Wildlife Way
Santa Fe, NM 87507

ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
1201 Elm Street, 500
Dallas, Texas 75270

PREPARED BY: Jim Afghani
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Water Division
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PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on July 27, 2024.

DATE PREPARED: October 1, 2024

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed
at Title 40, Code of Federal Regulations, revised as of September 27, 2024.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT

There are no significant changes from the draft permit. The requirement in Part II – Other Conditions, Section G – Best Management Practices to develop a Best Management Plan has been modified to require implementation and updating, as needed, the plan already developed and being implemented by NMDGF..

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, SWQB, to Troy C. Hill, P.E., Director, Water Division (EPA) dated September 10, 2024, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law.

The NMED stated that in order to meet the requirements of State law, including water quality standards and appropriate basin plans as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The State also stated that it reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State’s water quality standards and water quality management plan.

COMMENTS THAT ARE CONDITIONS OF CERTIFICATION

There are no requirements for certification.

COMMENTS THAT ARE NOT CONDITION OF CERTIFICATION**NMED Comment No. 1:**

1. In the Fact Sheet, Part V - Draft Permit Rationale and Proposed Permit Conditions, Section C - Water Quality Based Limitations, Paragraph 4 – Permit Action - Water Quality-Based Limits, Subparagraph c – Per- and Polyfluoroalkyl Substances, NMED requests that EPA correct the numbering of Per- and Polyfluoroalkyl Substances subparagraph “c” to “d.”

Response No. 1:

Comment noted for the record. No changes to the final permit were necessary.

NMED Comment No. 2:

In Part II – Other Conditions, Section C – Permit Modification and Reopener, NMED requests that EPA correct the CFR reference to 40 CFR 122.44(c), which addresses the reopener clause.

Response No. 2:

Updated.

NMED Comment No. 3:

In Part II – Other Conditions, Section C – Permit Modification and Reopener, the reference to 40 CFR 122.62(s)(2) needs to be corrected to 40 CFR 122.62(a)(2).

Response No. 3:

Updated.

NMED Comment No. 4:

Part II – Other Conditions, Section G – Best Management Practices, Paragraph 1- Implementation, details the development and implementation of a Best Management Practices Plan. New Mexico Department of Game and Fish has already developed and implemented a Best Management Practices plan.

NMED requests that Paragraph 1 be updated to state:

The permittee shall amend a copy of the BMP Plan whenever there is a change in the facility or in the operation of the facility that increases the generation of pollutants or their release or potential release to the receiving waters.

The permittee shall also amend the plan, as appropriate, when plant operations covered by the BMP Plan change. Any such changes to the BMP shall be consistent with the objective and specific requirements listed above. All changes in the BMP Plan shall be reported to EPA in writing.

Response No. 4:

BMP language in the final permit has been updated per request.

NMDGF Comment No. 1:

Page 2 of Part I of Permit- Pollutants

The Department asks that the requirement to conduct a Whole Effluent Toxicity Test be reduced to once per term. The hatchery has been conducting the test for the last 10 years with no failed test at 100% survival rate. Moving to once per term will put all hatcheries on a similar schedule.

Response No. 1:

The frequencies for WET tests are based on the characteristics of the receiving water, type and size of the facility, and are detailed in the NMIP. The requirements for this discharge are outlined in Part V.F. Table 12. To stay consistent with requirements for facilities discharging to similar water bodies, the frequency shall remain at once per six months for both species on the first year of the permit. If all the test pass on the first year, then the frequency is reduced for years 2-5 of the permit to once per year for *Pimephales promelas*, and once per six months for *Daphnia pulex*.

NMDGF Comment No. 2:

Page 8 of Part II. G. Best Management Practices

The hatchery has already developed a Best Management Practices Plan. We ask that the language be updated to the following:

“The permittee shall continue to maintain and update its Best Management Practices (BMP) Plan that achieves the objectives and the specific requirements listed below. The current plan provided previously shall remain in effect with this permit.”

Response No. 2:

BMP language in the final permit has been updated per request.