



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

December 14, 2020

REPLY TO: 6WQ-NP

Terry Sykes
General Manager
City of Raton Wastewater Treatment/Reclamation Facility
P.O. Box 99
Raton, NM 87740

Re: NPDES Application No. NM0020273 - City of Raton Wastewater Treatment/Reclamation Facility

Dear Mr. Sykes:

This package constitutes EPA's final permit decision for the above referenced facility. Enclosed are the responses to comments received during the public comment period and the final permit. According to EPA regulations at 40 CFR 124.19, within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision.

Should you have any questions regarding the final permit, please feel free to contact Quang Nguyen of the Permitting and Water Quality Branch at the above address or by telephone: (214) 665-7238, by fax: (214) 665-2191, or by E-mail: Nguyen.quang@epa.gov. Should you have any questions regarding compliance with the conditions of this permit, please contact the Water Enforcement Branch at the above address or by telephone: (214) 665 6468.

Sincerely,

Charles Maguire

Charles W. Maguire
Director
Water Division

Enclosures

cc: w/enclosures:
Sarah Holcomb, NMED

NPDES PERMIT NO. NM0020273
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: City of Raton Wastewater Treatment/Reclamation Facility
P.O. Box 99
Raton, NM 87740

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

PREPARED BY: Quang Nguyen
Environmental Engineer
Permitting and Water Quality Branch
Water Division
VOICE: 214-665-7238
FAX: 214-665-2191
EMAIL: Nguyen.Quang@epa.gov

PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on August 28, 2020.

DATE PREPARED: October 08, 2020

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40,
Code of Federal Regulations, revised as of September 28, 2015.

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 limitations guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/L	Milligrams per liter
µg/L	Micrograms per liter
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
MQL	Minimum quantification level
O&G	Oil and grease
PCB	Polychlorinated Biphenyl
POTW	Public owned treatment works
RP	Reasonable potential
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 plant

In this document, references to State WQS and/or rules shall collectively mean either or both the State of New Mexico and/or the Pueblo of Taos.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT

1. Revised the WET testing frequency requirement for Pimephales Promelas to once per year from once per quarter, and;
2. Removed the WET limit for Ceriodaphnia dubia.

STATE CERTIFICATION

In a letter from Ms. Shelly Lemon, Bureau Chief, SWQB, to Mr. Ken McQueen, Regional Administrator dated October 13, 2020, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 301, 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 plan 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.

Conditions of Certification:

1. None

Comments that are not Conditions of Certification

Comment No. 1:

On the first page of the fact sheet, there is a typo in the Receiving Water-Basin section. It should state that Doggett Creek is in the Canadian River Basin. There are two extraneous words (Grande Basin).

Response No. 1: Comment is noted for the record. No change to the final permit was required.

OTHER COMMENTS RECEIVED ON DRAFT PERMIT

A letter from PLUMMER, TBPE Firm Registration No. F-13 to Ms. Evelyn Rosborough (EPA) on September 24, 2020.

RESPONSE TO COMMENTS

Comment No. 1:

Fact Sheet, Section III-Effluent Characteristics (page 4). There was a typo in the permit application and the maximum and average TDS concentration should be 96.0 mg/L as opposed to 9.6 mg/L.

Response No. 1: Comment is noted for the record. No change to the final permit was required.

Comment No. 2:

Fact Sheet, Item E. Whole Effluent Toxicity Limitations (page 12). The fact sheet states that the permittee shall continue the biomonitoring test, but the water flea species has been changed and should be reverted back. A WET limit is not appropriate. The City initiated a TRE in 2016. There have been no failures since the TRE investigation. The TRE was ceased January 2017 because of the absence of toxicity.

In addition, the increased testing frequency for the entire duration of the permit poses an unnecessary financial burden on the City. The WET tests show 4 years of passing results. In light of the failures 5 years ago, the City proposes quarterly samples for the first year. Upon the City passing all toxicity tests after the first year, we propose that the sampling frequency be reduced to the existing frequency of once per year. The City is prepared to respond to any WET test failures, should that occur. In addition, with no change to the fathead minnow WET reporting requirement, the measurement frequency should not be changed.

The following presents the requested revision:

The permittee shall continue to conduct a 7-day biomonitoring test using *Daphnia pulex* ~~*Ceriodaphnia dubia*~~ at a frequency of once per quarter for the first year after permit issuance and once per year for the remainder of the permit term upon having no failures in the toxicity tests for the first year. The permittee shall continue to conduct a 7-day biomonitoring test using ~~and *Pimephales promelas*~~ at a ~~once per quarter~~ once per year frequency.

In addition, Table 4 should be updated as follows:

WHOLE EFFLUENT TOXICITY LIMIT	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE
(7-Day Chronic NOEC Freshwater) (*1)			
<i>Ceriodaphnia dubia</i>	98% REPORT	Once/Quarter*	24-Hr Composite
<i>Ceriodaphnia dubia</i>	REPORT	Once/Year**	24-Hr Composite

*Applicable for the first year of the permit

**Applicable for the remainder of the permit upon no WET failures within the first year

WHOLE EFFLUENT TOXICITY LIMIT	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE

(7-Day Chronic NOEC Freshwater) (*1)			
<i>Pimephales promelas</i>	REPORT	Once/Quarter Once/Year	24-Hr Composite

Response No. 2:

EPA agrees with the permittee and removed the WET limit since the facility passed all the WET tests and did not experience any effluent toxicity since January 2017. EPA, also, included the following to the final permit

1. The previous permit *Pimephales promelas* 7-day biomonitoring test requirement at a once per year frequency (in accordance to the NMIP);
2. *Ceriodaphnia dubia* at a frequency of once per quarter begin on the effective date of this permit and lasting through 1 year from the permit effective date, and once per year for the remainder of the permit term upon having no failures in the toxicity tests for the first year, and;
3. Revisions to Section D of Part II (for consistency with the revised Whole Effluent Toxicity (7-Day Chronic NOEC Freshwater) Testing requirements).

Comment No. 3:

Draft Permit, Effluent Limitations and Monitoring Requirements (page 1 of PART 1). For immediate clarification purposes, it is recommended that the heading of the table include an additional breakdown to differentiate mass loadings and concentrations. The following language presents the requested revisions:

MASS LOADING			CONCENTRATION		
30-DAY AVG	7-DAY AVG	DAILY MAX	30-DAY AVG	7-DAY AVG	DAILY MAX

Response No. 3: EPA agrees and included recommended headings to the table in Section A, Part I of the final permit.

Comment No. 4:

Draft Permit, Effluent Limitations and Monitoring Requirements (page 2 of PART 1). The measurement frequency for the WET testing should not be increased for the *Pimephales promelas* since there was no change from the previous permit. See comment #2 above for the detailed request. The following language presents the requested revisions:

WHOLE EFFLUENT TOXICITY LIMIT (7-Day Chronic NOEC Freshwater) (*1)	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE
<i>Ceriodaphnia dubia</i>	REPORT	Once/Quarter*	24-Hr Composite
<i>Ceriodaphnia dubia</i>	REPORT	Once/Year**	24-Hr Composite

*Applicable for the first year of the permit

**Applicable for the remainder of the permit upon no WET failures within the first year

WHOLE EFFLUENT TOXICITY LIMIT (7-Day Chronic NOEC Freshwater) (*1)	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE
<i>Pimephales promelas</i>	REPORT	Once/Year	24-Hr Composite

Response No. 4: Please see responses to Comment No.2 above.

Comment No. 5:

There are a handful of typographical errors that are not specified in the above items.

Response No. 5: Comments in the factsheet are noted for the record. No change to the final permit was required.



REGION 6
1201 Elm St., Suite 500
DALLAS, TEXAS 75270

NPDES Permit No NM0020273

**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"),

City of Raton
Raton Water Works
P.O. Box 99
Raton, NM 87740

is authorized to discharge from a facility located at 1750 East Hereford Avenue, Raton, in Colfax County, New Mexico, to receiving waters named Doggett Creek in Segment No. 20.6.4.318, thence to Raton Creek, thence to Chicorica Creek, thence to Canadian River, in the Canadian River Basin.

The discharge is located on Doggett Creek at the following coordinates:

Outfall 001: Latitude 36° 52' 13.91" North, Longitude 104° 25' 39.18" 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. NM0020273 issued May 28, 2015.

This permit prepared by Quang Nguyen, Environmental Engineer, Permitting Section (6WQ-PE) shall become effective on February 1, 2021

This permit and the authorization to discharge shall expire at midnight, January 31, 2026

Issued on December 14, 2020

Charles Maguire

Charles W. Maguire
Director
Water Division (6WQ)

(This page intentionally left blank)

PART I – REQUIREMENTS FOR NPDES PERMITS

SECTION A. LIMITATIONS AND MONITORING REQUIREMENTS

1. Effluent Limits – 0.9 MGD Design Flow

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 municipal wastewater from Outfalls 001 to Doggett Creek in Segment No. 20.6.4.318. Such discharges shall be limited and monitored by the permittee as specified below:

POLLUTANT (*8)	MASS LOADING			CONCENTRATION			MEASUREMENT FREQUENCY	SAMPLE TYPE
	30-DAY AVG	7-DAY AVG	DAILY MAX	30-DAY AVG	7-DAY AVG	DAILY MAX		
Flow	Report MGD	Report MGD	***	***	***	***	Daily	Totalizing Meter
Biochemical Oxygen Demand, 5-day BOD ₅ (influent) (*4)	***	***	***	Report	Report	***	3/Month	3-Hr Composite
Biochemical Oxygen Demand, 5-day BOD ₅ (effluent) (*4)	225 lbs/day	338 lbs/day	***	30 mg/l	45 mg/l	N/A	3/Month	3-Hr Composite
BOD ₅ Percent Removal (min)	≥ 85%	***	***	***	***	***	1/Month	Calculation (*3)
Total Suspended Solids, TSS (influent) (*4)	***	***	***	Report	Report	***	3/Month	3-Hr Composite
Total Suspended Solids, TSS (effluent) (*4)	225 lbs/day	338 lbs/day	***	30 mg/l	45 mg/l	N/A	3/Month	3-Hr Composite
TSS Percent Removal (min)	≥ 85%	***	***	***	***	***	1/Month	Calculation (*3)
E. Coli Bacteria (*1)	4.3 Billion (*7)	N/A	***	126 cfu/100mL	N/A	410 cfu/100mL	3/Month	Grab
Total Nitrogen (TN)	44.2 lbs/day (*11)	N/A	Report	10 mg/L (*11)	N/A	Report	2/Month	3-Hr Composite
Total Phosphorus (TP)	13.3 lbs/day (*11)	N/A	Report	3 mg/L (*11)	N/A	Report	2/Month	3-Hr Composite
Total Nitrogen (TN)	41.1 lbs/day (*9)	N/A	Report	9.3 mg/L (*9)	N/A	Report	2/Month	3-Hr Composite
Total Phosphorus (TP)	13.3 lbs/day (*9)	N/A	Report	3 mg/L (*9)	N/A	Report	2/Month	3-Hr Composite
Total Nitrogen (TN) (*10)	Report	***	Report	Report	***	Report	12-month	Calculation
Total Phosphorus (TP) (*10)	Report	***	Report	Report	***	Report	12-month	Calculation
Total Residual Chlorine	N/A	N/A	***	N/A	N/A	11 ug/L (*2)	5/Week (*2)	Instantaneous Grab (*5)

POLLUTANT	MINIMUM	MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
pH	6.6 Standard Units	9 Standard Units	5/Week	Instantaneous Grab (*5)

WHOLE EFFLUENT TOXICITY TESTING (7-Day Chronic Static Renewal/ NOEC) (*6)	VALUE	MEASUREMENT FREQUENCY	SAMPLE TYPE
<i>Ceriodaphnia dubia</i>	Report	Once/Quarter	24-Hr Composite
<i>Pimephales promelas</i>	Report	Once/Year	24-Hr Composite

Footnotes:

- *1 Colony forming units (cfu) per 100 ml or mpn. The 30-day average for E. coli bacteria is the geometric mean of the values for all effluent samples collected during a calendar month
- *2 The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. Grab sample taken during periods of chlorine use (for disinfection and/or when used in any treatment process at the facility).
- *3 Percent removal is calculated using the following equation: (average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration.
- *4 Effluent and influent monitoring shall be conducted simultaneously.
- *5 For instantaneous grab defined in the 40 CFR Part 136, sample shall be analyzed within 15 minutes of sampling.
- *6 Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements and additional WET monitoring and reporting conditions. Grab samples are allowed per method, if needed.
- *7 Billion (1.0×10^9) cfu/day. The loading limit shall be calculated as follows: [Flow in MGD x cfu/100 mL in effluent x 3.79×10^7] / 1.0×10^9 .
- *8 See Part II.C. Minimum Quantification Level (MQL) of permit.
- *9 The interim limits apply during the period beginning 1 year from the permit effective date and lasting through the expiration date of the permit and any time during which the permit is administratively continued if not reissued prior to expiration.
- *10 The requirement to report the annual average for TP and TN has been included in the permit. Annual Average is defined as the 12-month rolling average (calculated monthly). The first value will be calculated using the monthly average for the first full month ending after the effective date of the permit and the eleven previous monthly average. Each subsequent month's DMR will report the annual average for the previous 12 months. Report maximum daily value for each operating date.
- *11 The interim limits begin on the effective date of this permit and lasting through 1 year from the permit effective date.

2. 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.

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.

B. SCHEDULE OF COMPLIANCE

Under the Temporary Standard promulgated by the New Mexico Water Quality Control Commission and approved by EPA Region 6 at 20.6.4.318 NMAC, the term to achieve 30-day average limits of 8 mg/L TN and 1.6 mg/L TP is 20 years. The target completion date is January 2040. The permittee shall make diligent efforts to ensure progress is being made in achieving the temporary standard by the target completion date. These efforts shall include both operation optimization and modification of the existing treatment facility. They shall be conducted in two phases. Generally, Phase 1 consists of coagulation selection/incorporation and process upgrades, if any, for phosphorous removal and Phase 2 includes the facility aeration control upgrades for nitrogen removal. The portion of the compliance schedule applicable during this 5-year permit term is included here. The permittee shall comply with the following schedule of activities:

<u>I. Phase 1 Activities</u>	<u>Target Completion Date</u>
Incorporation of chemical addition into facility's treatment scheme	
1. Continue optimization efforts of existing system, PER for SBR upgrades to achieve nutrient removal goal, coagulation selection thru pilot testings, and conduct a zero-discharge feasibility study;	January 2023
2. Design for Phase 1 (coagulation for TP removal), Apply for funding and continue zero discharge feasibility study;	January 2025
a. The permittee shall submit a progress report to both EPA and NMED outlining the status of the phase activities during the months of January, April, July, and October, of each year.	
b. The report of progress shall also include an explanation for delays, if applicable, and proposed remedial actions.	

C. MONITORING AND REPORTING (MINOR DISCHARGERS)

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://netdmr.epa.gov>. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain a waiver, please contact: U.S. EPA-Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-7179. 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 copies to NMED, as required (See Part III.D.IV of the permit). Monitoring results 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 make regular monthly reports as described above postmarked no later than 28th day of the month following the end of each reporting period.
3. If any 30-day average, 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.
4. Any 30-day average, 7-day average, or daily maximum value reported in the required DMR 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.
5. Other measurements of oxygen demand (e.g., TOC and COD) may be substituted for BOD₅ or for 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.

D. OVERFLOW REPORTING

The permittee shall report all overflows with the Discharge Monitoring Report submittal. 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).

Overflows that endanger health or the environment shall be orally reported to EPA at (214) 665-6595, and NMED Surface Water Quality Bureau at (505) 827-0187, 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 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.

PART II - OTHER CONDITIONS

A. MINIMUM QUANTIFICATION LEVEL (MQL) & SUFFICIENTLY SENSITIVE METHODS

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-O-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. PERMIT MODIFICATION AND REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of New Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised, new State water quality standards are established and/or remanded by the New Mexico Water Quality Control Commission, or site-specific Total Maximum Daily Loads (TMDL) are developed and approved.

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.

C. CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

1. The following pollutants may not be introduced into the treatment facility:
 - (a) Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, waste streams 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;
 - (b) 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;
 - (c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference;
 - (d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
 - (e) 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 the alternate temperature limit;

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral origin in amounts that will cause interference or pass through;

(g) 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

(h) 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:

(a) 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; and

(b) Any substantial change in the volume or character of pollutants being introduced into the treatment works.

(c) 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 such change in the quality or quantity of effluent to be discharged from the publicly owned treatment works.

D. WHOLE EFFLUENT TOXICITY TESTING (7-DAY CHRONIC 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)	
REPORTED AS FINAL OUTFALL	001
CRITICAL DILUTION (%)	98%
EFFLUENT DILUTION SERIES (%)	31%, 41%, 55%, 74%, 98%
TEST SPECIES AND METHODS	<i>Ceriodaphnia dubia</i> / Method 1002.0 (EPA-821-R-02-013 or latest version) <i>Pimephales promelas</i> / Method 1000.0 (EPA/821/R-02-013 or latest version)
SAMPLE TYPE	Defined in PART I

- b. The NOEC (No Observed Lethal Effect Concentration) is herein 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. Chronic lethal 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. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.
- c. This permit may be reopened to require additional WET limits, chemical specific effluent limits, additional testing, a Toxicity Reduction Evaluation, and/or other appropriate actions to address toxicity.

2. REQUIRED TEST ACCEPTABILITY CRITERIA AND TEST CONDITIONS

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>Ceriodaphnia dubia</i>	<i>Pimephales promelas</i>
Test Duration	Until 60% or more of surviving control females have 3 broods (max 8 days)	7 days
# of replicates per concentration	10	5
# of organisms per replicate	1	8
# of organisms per concentration	10	40 (minimum)
# 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
Sampling Requirement *	Minimum of 3 samples	Minimum of 3 samples
Test Acceptability Criteria	≥80% survival of all control organisms.	≥80% survival of all control organisms.
	Average of 15 or more neonates per surviving control female.	Average dry weight per surviving organism in control must be ≥0.25mg.
	60% of surviving control females must produce 3 broods.	
Coefficient of Variation **	40% or less, unless significant effects are exhibited.	40% or less unless significant effects are exhibited.
Percent Minimum Significant Difference (PMSD range) for Sublethal Endpoint **	13 – 47	12 - 30

* 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 a minimum of three samples (flow-weighted composite if possible) from the outfall(s).
- 2) The permittee shall collect a second and third 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 hrs is allowed upon notification to EPA 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>Ceriodaphnia dubia</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".	TLP3B	TLP6C
Report the NOEC value for survival	TOP3B	TOP6C
Report the LOEC value for survival	TXP3B	TXP6C
Enter a "1" if the NOEC for growth or reproduction is less than the critical dilution, otherwise enter a "0".	TGP3B	TGP6C

Report the NOEC value for growth or reproduction	TPP3B	TPP6C
Report the LOEC value for growth	TYP3B	TYP6C
Report the highest (critical dilution or control) Coefficient of Variation	TQP3B	TQP6C
(If required) Retest 1 – Enter a “1” if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter “0”.	22418	22415
(If required) Retest 2- Enter a “1” if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter “0”.	22419	22416
(If required) Retest 3- Enter a “1” if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter “0”.	51444	51443

4. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for *Ceriodaphnia dubia*, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to once per year.
- b. Certification - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria above. In addition, the permittee must provide a list with each test performed including test initiation date, species, and NOECs. Upon review and acceptance of this information, the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency’s compliance section to update the permit reporting requirements.
- c. Failures - If any test demonstrates lethal or sub-lethal effects at or below the critical dilution at any time during the life of this permit, three monthly retests are required. If a frequency reduction had been granted, the monitoring frequency for the affected test species reverts to once per quarter until the permit is re-issued.

5. PERSISTENT TOXICITY

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal and/or sub-lethal effects at or below the critical dilution. Significant toxic effects, are herein defined as a statistically significant difference at the 95% confidence level between the survival, growth or

reproduction of the appropriate test organism in a specified effluent dilution and the control (0% effluent). If the initial WET test conducted fails, the permittee will conduct three retests. The purpose of retests is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result. If any valid test demonstrates significant lethal and/or sub-lethal effects to a test species at or below the critical dilution, the frequency of testing for this species is automatically increased to once per quarter with no option for frequency reduction.

a. Retest

The permittee shall conduct a total of three (3) additional tests for any species that demonstrates significant effects at or below the critical dilution. The three additional tests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the additional tests in lieu of one routine toxicity test. A full report shall be prepared for each test required by this section in accordance with the reporting requirements previously outlined and available upon request from the Agency.

b. Requirement to Initiate a Toxicity Reduction Evaluation

If persistent lethality is demonstrated by failure of one or more retests, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Part 6 of this section. If persistent sub-lethality is demonstrated by failure of two or more retests, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements. The permittee shall notify EPA in writing within 5 days of notification of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest for lethal TREs or second failed retest for sub-lethal TREs. A TRE may also be required due to a demonstration of intermittent effects at or below the critical dilution, or for failure to perform the required retests.

6. TOXICITY REDUCTION EVALUATION (TRE)

EPA Region 6 is currently addressing TREs as follows: A TRE is triggered following three sub-lethal test failures (a failure followed by two retest failures) or two test failures with lethal effects (a failure followed by one retest failure).

- a. Within ninety (90) days of confirming lethality and/or sub-lethality in the retests, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE to the EPA WET Coordinator at 6WQ-PO. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A TRE is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable

level. A TRE is defined as a step wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The TRE Action Plan shall lead to the successful elimination of effluent toxicity at the critical dilution and include the following:

- 1) Specific Activities. The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, a Toxicity Identification Evaluation (TIE) and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Identification Evaluations to characterize the nature of the constituents causing toxicity, the permittee shall perform multiple characterizations and follow the procedures specified in the documents "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA 600/6-91/003) or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081), as appropriate.
- 2) Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified; Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where toxicity was demonstrated within 24 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;
- 3) Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and

-
- 4) Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal.
 - c. The permittee shall submit a quarterly TRE Activities Report to the EPA WET Coordinator (6WQ-PO) in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - 1) Any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;
 - 2) Any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - 3) Any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant toxicity at the critical dilution. A copy of the TRE Activities Report shall also be submitted to the state agency.
 - 4) Any results and interpretation of any chemical specific analysis, and for any characterization, identification, and confirmation tests performed during the quarter.
 - 5) Any changes to the initial TRE plan and schedule that are believed necessary.
 - d. Finalizing a TRE

The permittee shall submit (to EPA 6WQ-PO) a final report on TRE activities no later than twenty-eight (28) months from confirming toxicity in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant toxicity at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism. A copy of the final report on TRE Activities shall also be submitted to the state agency.

A TRE may be stopped if there is no toxicity at the critical dilution for a period of 12 consecutive months (with at least monthly testing) following confirmation of toxicity in the retests. The permittee would submit a final report to EPA at that time.
 - e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical

compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

APPENDIX A of PART II

The following Minimum Quantification Levels (MQL's) are to be used for reporting pollutant data for NPDES permit applications and/or compliance reporting.

POLLUTANTS	MQL µg/l	POLLUTANTS	MQL µg/l
METALS, RADIOACTIVITY, CYANIDE and CHLORINE			
Aluminum	2.5	Molybdenum	10
Antimony	60	Nickel	0.5
Arsenic	0.5	Selenium	5
Barium	100	Silver	0.5
Beryllium	0.5	Thallium	0.5
Boron	100	Uranium	0.1
Cadmium	1	Vanadium	50
Chromium	10	Zinc	20
Cobalt	50	Cyanide	10
Copper	0.5	Cyanide, weak acid dissociable	10
Lead	0.5	Total Residual Chlorine	33
Mercury *1	0.0005 0.005		
DIOXIN			
2,3,7,8-TCDD	0.00001		
VOLATILE COMPOUNDS			
Acrolein	50	1,3-Dichloropropylene	10
Acrylonitrile	20	Ethylbenzene	10
Benzene	10	Methyl Bromide	50
Bromoform	10	Methylene Chloride	20
Carbon Tetrachloride	2	1,1,2,2-Tetrachloroethane	10
Chlorobenzene	10	Tetrachloroethylene	10
Clorodibromomethane	10	Toluene	10
Chloroform	50	1,2-trans-Dichloroethylene	10
Dichlorobromomethane	10	1,1,2-Trichloroethane	10
1,2-Dichloroethane	10	Trichloroethylene	10
1,1-Dichloroethylene	10	Vinyl Chloride	10
1,2-Dichloropropane	10		
ACID COMPOUNDS			
2-Chlorophenol	10	2,4-Dinitrophenol	50
2,4-Dichlorophenol	10	Pentachlorophenol	5
2,4-Dimethylphenol	10	Phenol	10
4,6-Dinitro-o-Cresol	50	2,4,6-Trichlorophenol	10

POLLUTANTS	MLQ µg/l	POLLUTANTS	MLQ µg/l
BASE/NEUTRAL			
Acenaphthene	10	Dimethyl Phthalate	10
Anthracene	10	Di-n-Butyl Phthalate	10
Benzidine	50	2,4-Dinitrotoluene	10
Benzo(a)anthracene	5	1,2-Diphenylhydrazine	20
Benzo(a)pyrene	5	Fluoranthene	10
3,4-Benzofluoranthene	10	Fluorene	10
Benzo(k)fluoranthene	5	Hexachlorobenzene	5
Bis(2-chloroethyl)Ether	10	Hexachlorobutadiene	10
Bis(2-chloroisopropyl)Ether	10	Hexachlorocyclopentadiene	10
Bis(2-ethylhexyl)Phthalate	10	Hexachloroethane	20
Butyl Benzyl Phthalate	10	Indeno(1,2,3-cd)Pyrene	5
2-Chloronaphthalene	10	Isophorone	10
Chrysene	5	Nitrobenzene	10
Dibenzo(a,h)anthracene	5	n-Nitrosodimethylamine	50
1,2-Dichlorobenzene	10	n-Nitrosodi-n-Propylamine	20
1,3-Dichlorobenzene	10	n-Nitrosodiphenylamine	20
1,4-Dichlorobenzene	10	Pyrene	10
3,3'-Dichlorobenzidine	5	1,2,4-Trichlorobenzene	10
Diethyl Phthalate	10		
PESTICIDES AND PCBs			
Aldrin	0.01	Beta-Endosulfan	0.02
Alpha-BHC	0.05	Endosulfan sulfate	0.02
Beta-BHC	0.05	Endrin	0.02
Gamma-BHC	0.05	Endrin Aldehyde	0.1
Chlordane	0.2	Heptachlor	0.01
4,4'-DDT and derivatives	0.02	Heptachlor Epoxide	0.01
Dieldrin	0.02	PCBs *2	0.2
Alpha-Endosulfan	0.01	Toxaphene	0.3

(MLQ's Revised November 1, 2007)

Footnotes:

*1 Default MLQ for Mercury is 0.005 unless Part I of your permit requires the more sensitive Method 1631 (Oxidation / Purge and Trap / Cold vapor Atomic Fluorescence Spectrometry), then the MLQ shall be 0.0005.

*2 PCBs generally must be tested using Method 1668A as requested by NMED: Chlorinated Biphenyl Congeners in Water, Soil, Sediment and Tissue by High Resolution Gas Chromatography/High Resolution Mass Spectrometry (HRGC/HRMS) [EPA-821-R-00-002].

PART III - STANDARD CONDITIONS FOR NPDES PERMITS**A. GENERAL CONDITIONS****1. INTRODUCTION**

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. TOXIC POLLUTANTS

a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. DUTY TO REAPPLY

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

8. CRIMINAL AND CIVIL LIABILITY

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

10. STATE LAWS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

11. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

B. PROPER OPERATION AND MAINTENANCE

1. NEED TO HALT OR REDUCE NOT A DEFENSE

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. PROPER OPERATION AND MAINTENANCE

- a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. BYPASS OF TREATMENT FACILITIES

a. BYPASS NOT EXCEEDING LIMITATIONS

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.b. and 4.c.

b. NOTICE

(1) ANTICIPATED BYPASS

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) UNANTICIPATED BYPASS

The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

c. PROHIBITION OF BYPASS

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
- (c) The permittee submitted notices as required by Part III.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. UPSET CONDITIONS

a. EFFECT OF AN UPSET

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. CONDITIONS NECESSARY FOR A DEMONSTRATION OF UPSET

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. BURDEN OF PROOF

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. REMOVED SUBSTANCES

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. PERCENT REMOVAL (PUBLICLY OWNED TREATMENT WORKS)

For publicly owned treatment works, the 30-day average (or Monthly Average) percent removal for Biochemical Oxygen Demand and Total Suspended Solids shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR 133.103.

C. MONITORING AND RECORDS

1. INSPECTION AND ENTRY

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. REPRESENTATIVE SAMPLING

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. RETENTION OF RECORDS

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. RECORD CONTENTS

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;

- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. MONITORING PROCEDURES

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. FLOW MEASUREMENTS

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

D. REPORTING REQUIREMENTS

1. PLANNED CHANGES

a. INDUSTRIAL PERMITS

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at Part III.D.10.a.

b. MUNICIPAL PERMITS

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. ANTICIPATED NONCOMPLIANCE

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. TRANSFERS

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

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://netdmr.epa.gov>. 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 (6ECD-W), (214) 665-7179. 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 copies to NMED as required. Duplicate copies of all other reports shall be submitted to NMED at the following address(es):

EPA:
Enforcement & Compliance Assurance Division
Water Enforcement Branch (6ECD-W)
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

New Mexico:
Program Manager
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
1190 Saint Francis Drive
Santa Fe, NM 87502-5469

5. ADDITIONAL MONITORING BY THE PERMITTEE

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. AVERAGING OF MEASUREMENTS

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

7. TWENTY-FOUR HOUR REPORTING

a. The permittee shall report any noncompliance which may endanger health or the environment. Notification shall be made to the EPA at the following e-mail address: R6_NPDES_Reporting@epa.gov, as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. Oral notification shall also be to the New Mexico Environment Department at (505) 827-0187 as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:

- (1) A description of the noncompliance and its cause;
- (2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
- (2) Any upset which exceeds any effluent limitation in the permit; and,
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (industrial permits only) of the permit to be reported within 24 hours.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

9. OTHER INFORMATION

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES

All existing manufacturing, commercial, mining, and silvacultural permittees shall notify the Director as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (1) One hundred micrograms per liter (100 µg/L);
 - (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2, 4-dinitro-phenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the Director.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (1) Five hundred micrograms per liter (500 µg/L);
 - (2) One milligram per liter (1 mg/L) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the Director.

11. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Director shall be signed and certified.

- a. ALL PERMIT APPLICATIONS shall be signed as follows:

- (1) FOR A CORPORATION - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.

- (3) FOR A MUNICIPALITY, STATE, FEDERAL, OR OTHER PUBLIC AGENCY - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(a) The chief executive officer of the agency, or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

- b. ALL REPORTS required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described above;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental

matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

c. CERTIFICATION

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations"

12. AVAILABILITY OF REPORTS

Except for applications, effluent data permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. CRIMINAL

a. NEGLIGENT VIOLATIONS

The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

b. KNOWING VIOLATIONS

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.

c. KNOWING ENDANGERMENT

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

d. FALSE STATEMENTS

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. CIVIL PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$37,500 per day for each violation.

3. ADMINISTRATIVE PENALTIES

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. CLASS I PENALTY

Not to exceed \$16,000 per violation nor shall the maximum amount exceed \$37,500.

b. CLASS II PENALTY

Not to exceed \$16,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$177,500.

F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. ACT means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. ADMINISTRATOR means the Administrator of the U.S. Environmental Protection Agency.
3. APPLICABLE EFFLUENT STANDARDS AND LIMITATIONS means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards or performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. APPLICABLE WATER QUALITY STANDARDS means all water quality standards to which a discharge is subject under the Act.
5. BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
6. DAILY DISCHARGE means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. DAILY MAXIMUM discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. DIRECTOR means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. ENVIRONMENTAL PROTECTION AGENCY means the U.S. Environmental Protection Agency.
10. GRAB SAMPLE means an individual sample collected in less than 15 minutes.
11. INDUSTRIAL USER means a non-domestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
12. MONTHLY AVERAGE (also known as DAILY AVERAGE) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month where C = daily concentration, F = daily flow, and n = number of daily samples; daily average discharge =

$$\frac{C_1F_1 + C_2F_2 + \dots + C_nF_n}{F_1 + F_2 + \dots + F_n}$$
13. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.

14. SEVERE PROPERTY DAMAGE means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
15. SEWAGE SLUDGE means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff that are discharged to or otherwise enter a publicly owned treatment works.
16. TREATMENT WORKS means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof.
17. UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
18. FOR FECAL COLIFORM BACTERIA, a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
19. The term "MGD" shall mean million gallons per day.
20. The term "mg/L" shall mean milligrams per liter or parts per million (ppm).
21. The term "µg/L" shall mean micrograms per liter or parts per billion (ppb).
22. MUNICIPAL TERMS
 - a. 7-DAY AVERAGE or WEEKLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - b. 30-DAY AVERAGE or MONTHLY AVERAGE, other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
 - c. 24-HOUR COMPOSITE SAMPLE consists of a minimum of 12 effluent portions collected at equal time intervals over the 24-hour period and combined proportional to flow or a sample collected at frequent intervals proportional to flow over the 24-hour period.
 - d. 12-HOUR COMPOSITE SAMPLE consists of 12 effluent portions collected no closer together than one hour and composited according to flow. The daily sampling intervals shall include the highest flow periods.
 - e. 6-HOUR COMPOSITE SAMPLE consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
 - f. 3-HOUR COMPOSITE SAMPLE consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

MINOR - SEWAGE SLUDGE REQUIREMENTS

INSTRUCTIONS TO PERMITTEES

Select only those Elements and Sections which apply to your sludge reuse or disposal practice.

The sludge conditions do not apply to wastewater treatment lagoons where sludge is not wasted for final reuse/disposal. If the sludge is not removed, the permittee shall indicate on the DMR "No Discharge".

Although reporting is not required at this time, this permit may be modified or revoked and reissued to require an annual DMR.

ELEMENT 1 - LAND APPLICATION

- SECTION I: Page 2 - Requirements Applying to All Sewage Sludge Land Application
- SECTION II: Page 6 - Requirements Specific to Bulk Sewage Sludge for Application to the Land Meeting Class A or B Pathogen Reduction and the Cumulative Loading Rates in Table 2, or Class B Pathogen Reduction and the Pollutant Concentrations in Table 3
- SECTION III: Page 9 - Requirements Specific to Bulk Sewage Sludge Meeting Pollutant Concentrations in Table 3 and Class A Pathogen Reduction Requirements
- SECTION IV: Page 10 - Requirements Specific to Sludge Sold or Given Away in a Bag or Other Container for Application to the Land that does not meet the Pollutant Concentrations in Table 3

ELEMENT 2 - SURFACE DISPOSAL

- SECTION I: Page 12 - Requirements Applying to All Sewage Sludge Surface Disposal
- SECTION II: Page 16 - Requirements Specific to Surface Disposal Sites Without a Liner and Leachate Collection System
- SECTION III: Page 17 - Requirements Specific to Surface Disposal Sites With a Liner and Leachate Collection System

ELEMENT 3 - MUNICIPAL SOLID WASTE LANDFILL DISPOSAL

- SECTION I: Page 18 - Requirements Applying to All Municipal Solid Waste Landfill Disposal Activities

ELEMENT 1 - LAND APPLICATION

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with Section 405 of the Clean Water Act and all other applicable Federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
2. If requirements for sludge management practices or pollutant criteria become more stringent than the sludge pollutant limits or acceptable management practices in this permit, or control a pollutant not listed in this permit, this permit may be modified or revoked and reissued to conform to the requirements promulgated at Section 405(d)(2) of the Clean Water Act. If new limits for Molybdenum are promulgated prior to permit expiration, then those limits shall become directly enforceable.
3. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
4. The permittee shall give prior notice to EPA (Chief, Permits Branch, Water Management Division, Mail Code 6WQ-P, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202) of any planned changes in the sewage sludge disposal practice, in accordance with 40 CFR Part 122.41(l)(1)(iii). These changes may justify the application of permit conditions that are different from or absent in the existing permit. Change in the sludge use or disposal practice may be because for modification of the permit in accordance with 40 CFR Part 122.62(a)(1).

B. Testing Requirements

1. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Element 1, Section I.C.

Table 1

Pollutant	Ceiling Concentration (milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

2. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by either the Class A or Class B pathogen requirements. Sewage sludge that is applied to a lawn or home garden shall be treated by the Class A pathogen requirements. Sewage sludge that is sold or given away in a bag shall be treated by Class A pathogen requirements.

- a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. All 6 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land. Below are the additional requirements necessary to meet the definition of a Class A sludge. Alternatives 5 and 6 are not authorized to demonstrate compliance with Class A sewage sludge in Texas permits.

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at a specific value for a period of time. See 503.32(a)(3)(ii) for specific information.

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours.

The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

At the end of the 72 hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%.

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 503.32(a)(5)(ii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 503.32(a)(5)(iii) for specific information.

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed or at the time the sludge is prepared for sale or give away in a bag or other container for application to the land.

The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed or at the time the sewage sludge is prepared for sale or gives away in a bag or other container for application to the land.

Alternative 5 - Sewage sludge shall be treated by one of the Processes to Further Reduce Pathogens (PFRP) described in 503 Appendix B. PFRPs include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 - Sewage sludge shall be treated by a process that is equivalent to a Process to Further Reduce Pathogens, if individually approved by the Pathogen Equivalency Committee representing the EPA.

- b. Three alternatives are available to demonstrate compliance with Class B sewage sludge. Alternatives 2 and 3 are not authorized to demonstrate compliance with Class B sewage sludge in Texas permits.

Alternative 1 - Seven random samples of the sewage sludge shall be collected for one monitoring episode at the time the sewage sludge is used or disposed.

The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge shall be treated in one of the Processes to significantly Reduce Pathogens described in 503 Appendix B.

Alternative 3 - Sewage sludge shall be treated in a process that is equivalent to a PSRP, if individually approved by the Pathogen Equivalency Committee representing the EPA.

In addition, the following site restrictions must be met if Class B sludge is land applied:

- Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
- Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
- Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.
- Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.
- Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
- Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.
- Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.
- Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

3. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following alternatives 1 through 10 for Vector Attraction Reduction. If bulk sewage sludge is applied to a home garden, or bagged sewage sludge is applied to the land, only alternative 1 through alternative 8 shall be used.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solid of 2% or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 % based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 9 -

- Sewage sludge shall be injected below the surface of the land.
- No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
- When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10 -

- Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
- When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

All other pollutants shall be monitored at the frequency shown below:

Amount of sewage sludge (metric tons per 365 day period)*	Frequency
0 ≤ Sludge < 290	Once/Year
290 ≤ Sludge < 1,500	Once/Quarter
1,500 ≤ Sludge < 15,000	Once/Two Months
15,000 ≤ Sludge	Once/Month

*Either the amount of bulk sewage sludge applied to the land or the amount of sewage sludge received by a person who prepares sewage sludge that is sold or given away in a bag or other container for application to the land (dry weight basis).

Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 40 CFR 503.8(b).

SECTION II. REQUIREMENTS SPECIFIC TO BULK SEWAGE SLUDGE FOR APPLICATION TO THE LAND MEETING CLASS A or B PATHOGEN REDUCTION AND THE CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B PATHOGEN REDUCTION AND THE POLLUTANT CONCENTRATIONS IN TABLE 3

For those permittees meeting Class A or B pathogen reduction requirements and that meet the cumulative loading rates in Table 2 below, or the Class B pathogen reduction requirements and contain concentrations of pollutants below those listed in Table 3 found in Element I, Section III, the following conditions apply:

1. Pollutant Limits

Table 2

Pollutant	Cumulative Pollutant Loading Rate (kilograms per hectare)
Arsenic	41
Cadmium	39
Chromium	3000
Copper	1500
Lead	300
Mercury	17
Molybdenum	Monitor
Nickel	420
Selenium	100
Zinc	2800

2. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, or lawn or home garden shall be treated by either Class A or Class B pathogen reduction requirements as defined above in Element 1, Section I.B.3.

3. Management Practices

- a. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters of the U.S., as defined in 40 CFR 122.2, except as provided in a permit issued pursuant to section 404 of the CWA.
- b. Bulk sewage sludge shall not be applied within 10 meters of a water of the U.S.
- c. Bulk sewage sludge shall be applied at or below the agronomic rate in accordance with recommendations from the following references:

- STANDARDS 1992 , Standards, Engineering Practices and Data, 39th Edition (1992) American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659.
- National Engineering Handbook Part 65 1, Agricultural Waste Management Field Handbook (1992), P.O. Box 2890, Washington, D.C. 20013.
- Recommendations of local extension services or Soil Conservation Services.
- Recommendations of a major University's Agronomic Department.

- d. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:
 - The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
 - A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet.
 - The annual whole sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Element I, Section III below are met.

4. Notification requirements

- a. If bulk sewage sludge is applied to land in a State other than the State in which the sludge is prepared, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is proposed to be applied. The notice shall include:
 - The location, by either street address or latitude and longitude, of each land application site.
 - The approximate time period bulk sewage sludge will be applied to the site.
 - The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who prepares the bulk sewage sludge.

- The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk sewage sludge.
 - b. The permittee shall give 60 days prior notice to the Director of any change planned in the sewage sludge practice. Any change shall include any planned physical alterations or additions to the permitted treatment works, changes in the permittee's sludge use or disposal practice, and also alterations, additions, or deletions of disposal sites. These changes may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional disposal sites not reported during the permit application process or absent in the existing permit. Change in the sludge use or disposal practice may be for modification of the permit in accordance with 40 CFR 122.62(a)(1).
 - c. The permittee shall provide the location of all existing sludge disposal/use sites to the State Historical Commission within 90 days of the effective date of this permit. In addition, the permittee shall provide the location of any new disposal/use site to the State Historical Commission prior to use of the site.
 - d. The permittee shall within 30 days after notification by the State Historical Commission that a specific sludge disposal/use area will adversely affect a National Historic Site, cease use of such area.
5. Recordkeeping Requirements - The sludge documents will be retained on site at the same location as other NPDES records.

The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information for five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for recordkeeping found in 40 CFR 503.17 for persons who land apply.

- a. The concentration (mg/Kg) in the sludge of each pollutant listed in Table 3 found in Element I, Section III and the applicable pollutant concentration criteria (mg/Kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (kg/ha) listed in Table 2 above.
- b. A description of how the pathogen reduction requirements are met (including site restrictions for Class B sludge, if applicable).
- c. A description of how the vector attraction reduction requirements are met.
- d. A description of how the management practices listed above in Section II.3 are being met.
- e. The recommended agronomic loading rate from the references listed in Section II.3.c. above, as well as the actual agronomic loading rate shall be retained.
- f. A description of how the site restrictions in 40 CFR Part 503.32(b)(5) are met for each site on which Class B bulk sewage sludge is applied.
- g. The following certification statement:
"I certify, under penalty of law, that the management practices in §503.14 have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."
- h. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification

including fine and imprisonment. See 40 CFR 503.17(a)(4)(i)(B) or 40 CFR Part 503.17(a)(5)(i)(B) as applicable to the permittees sludge treatment activities.

- i. The permittee shall maintain information that describes future geographical areas where sludge may be land applied.
- j. The permittee shall maintain information identifying site selection criteria regarding land application sites not identified at the time of permit application submission.
- k. The permittee shall maintain information regarding how future land application sites will be managed.

The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for recordkeeping found in 40 CFR 503.17 for persons who land apply.

- a. The location, by either street address or latitude and longitude, of each site on which sludge is applied.
- b. The number of hectares in each site on which bulk sludge is applied.
- c. The date and time sludge is applied to each site.
- d. The cumulative amount of each pollutant in kilograms/hectare listed in Table 2 applied to each site.
- e. The total amount of sludge applied to each site in metric tons.
- f. The following certification statement:

"I certify, under penalty of law, that the requirements to obtain information in §503.12(e)(2) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the requirements to obtain information have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."

- g. A description of how the requirements to obtain information in §503.12(e)(2) are met.

6. Reporting Requirements - None.

SECTION III. REQUIREMENTS SPECIFIC TO BULK OR BAGGED SEWAGE SLUDGE MEETING POLLUTANT CONCENTRATIONS IN TABLE 3 AND CLASS A PATHOGEN REDUCTION REQUIREMENTS

For those permittees with sludge that contains concentrations of pollutants below those pollutant limits listed in Table 3 for bulk or bagged (containerized) sewage sludge and also meet the Class A pathogen reduction requirements, the following conditions apply (Note: All bagged sewage sludge must be treated by Class A pathogen reduction requirements.):

- 1. Pollutant limits - The concentration of the pollutants in the municipal sewage sludge is at or below the values listed.

Table 3

Pollutant	Monthly Average Concentration (milligrams per kilogram)*
Arsenic	41
Cadmium	39
Chromium	1200

Copper	1500
Lead	300
Mercury	17
Molybdenum	Monitor
Nickel	420
Selenium	36
Zinc	2800

* Dry weight basis

2. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, or lawn or home garden shall be treated by the Class A pathogen reduction requirements as defined above in Element I, Section I.B.3. All bagged sewage sludge must be treated by Class A pathogen reduction requirements.

3. Management Practices - None.

4. Notification Requirements - None.

5. Recordkeeping Requirements - The permittee shall develop the following information and shall retain the information for five years. The sludge documents will be retained on site at the same location as other NPDES records.

- The concentration (mg/Kg) in the sludge of each pollutant listed in Table 3 and the applicable pollutant concentration criteria listed in Table 3.
- A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 503.17(a)(1)(ii) or 503.17(a)(3)(i)(B), whichever applies to the permittees sludge treatment activities.
- A description of how the Class A pathogen reduction requirements are met.
- A description of how the vector attraction reduction requirements are met.

6. Reporting Requirements - None.

SECTION IV. REQUIREMENTS SPECIFIC TO SLUDGE SOLD OR GIVEN AWAY IN A BAG OR OTHER CONTAINER FOR APPLICATION TO THE LAND THAT DOES NOT MEET THE MINIMUM POLLUTANT CONCENTRATIONS

1. Pollutant Limits

Table 4

Pollutant	Annual Pollutant Loading Rate (kilograms per hectare per 365 day period)
Arsenic	2
Cadmium	1.9
Chromium	150
Copper	75
Lead	15
Mercury	0.85
Molybdenum	Monitor
Nickel	21
Selenium	5

Zinc

140

2. Pathogen Control

All sewage sludge that is sold or given away in a bag or other container for application to the land shall be treated by the Class A pathogen requirements as defined above in Section I.B.3.a. above.

3. Management Practices

Either a label shall be affixed to the bag or other container in which sewage sludge that is sold or given away for application to the land, or an information sheet shall be provided to the person who receives sewage sludge sold or given away in another container for application to the land. The label or information sheet shall contain the following information:

- a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
- b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet.
- c. The annual whole sludge application rate for the sewage sludge that will not cause any of the annual pollutant loading rates in Table 4 above to be exceeded.

4. Notification Requirements - None.

5. Recordkeeping Requirements - The sludge documents will be retained on site at the same location as other NPD ES records. The person who prepares sewage sludge or a sewage sludge material shall develop the following information and shall retain the information for five years.

- a. The concentration in the sludge of each pollutant listed above in found in Element I, Section I, Table 1.
- b. The following certification statement found in §503.17(a)(6)(iii).

"I certify, under penalty of law, that the management practice in §503.14(e), the Class A pathogen requirement in §503.32(a), and the vector attraction reduction requirement in (insert vector attraction reduction option) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practice, pathogen requirements, and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

- c. A description of how the Class A pathogen reduction requirements are met.
- d. A description of how the vector attraction reduction requirements are met.
- e. The annual whole sludge application rate for the sewage sludge that does not cause the annual pollutant loading rates in Table 4 to be exceeded. See Appendix A to Part 503 - Procedure to Determine the Annual Whole Sludge Application Rate for Sewage Sludge.

6. Reporting Requirements - None.

ELEMENT 2- SURFACE DISPOSAL

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE SURFACE DISPOSAL

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with Section 405 of the Clean Water Act and all other applicable Federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present.
2. If requirements for sludge management practices or pollutant criteria become more stringent than the sludge pollutant limits or acceptable management practices in this permit, or control a pollutant not listed in this permit, this permit may be modified or revoked and reissued to conform to the requirements promulgated at Section 405(d)(2) of the Clean Water Act.
3. In all cases, if the person (permit holder) who prepares the sewage sludge or supplies the sewage sludge to another person (owner or operator of a sewage sludge unit) for disposal in a surface disposal site, the permit holder shall provide all necessary information to the parties who receive the sludge to assure compliance with these regulations.
4. The permittee shall give prior notice to EPA (Chief, Permits Branch, Water Management Division, Mail Code 6WQ -P, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202) of any planned changes in the sewage sludge disposal practice, in accordance with 40 CFR Part 122.41(l)(1)(iii). These changes may justify the application of permit conditions that are different from or absent in the existing permit. Change in the sludge use or disposal practice may be cause for modification of the permit in accordance with 40 CFR Part 122.62(a)(1).
5. The permittee or owner/operator shall submit a written closure and post closure plan to the permitting authority 180 days prior to the closure date. The plan shall include the following information:
 - a. A discussion of how the leachate collection system will be operated and maintained for three years after the surface disposal site closes if it has a liner and leachate collection system.
 - b. A description of the system used to monitor continuously for methane gas in the air in any structures within the surface disposal site. The methane gas concentration shall not exceed 25% of the lower explosive limit for methane gas for three years after the sewage sludge unit closes. A description of the system used to monitor for methane gas in the air at the property line of the site shall be included. The methane gas concentration at the surface disposal site property line shall not exceed the lower explosive limit for methane gas for three years after the sewage sludge unit closes.
 - c. A discussion of how public access to the surface disposal site will be restricted for three years after it closes.

B. Management Practices

1. An active sewage sludge unit located within 60 meters of a fault that has displacement in Holocene time shall close by March 22, 1994.
2. An active sewage sludge unit located in an unstable area shall close by March 22, 1994.
3. An active sewage sludge unit located in a wetland shall close by March 22, 1994.
4. Surface disposal shall not restrict the flow of the base 100-year flood.
5. The run-off collection system for an active sewage sludge unit shall have the capacity to handle run-off from a 25-year, 24-hour storm event.
6. A food crop, feed crop, or a fiber crop shall not be grown on a surface disposal site.

7. Animals shall not be grazed on a surface disposal site.
8. Public access shall be restricted on the active surface disposal site and for three years after the site closes.
9. Placement of sewage sludge shall not contaminate an aquifer. This shall be demonstrated through one of the following:
 - a. Results of a ground-water monitoring program developed by a qualified ground-water scientist.
 - b. A certification by a qualified ground-water scientist may be used to demonstrate that sewage sludge placed on an active sewage sludge unit does not contaminate an aquifer.
10. When a cover is placed on an active surface disposal site, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25% of the lower explosive limit for methane gas during the period that the sewage sludge unit is active. The concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas during the period that the sewage sludge unit is active. Monitoring shall be continuous.

C. Testing Requirements

1. Sewage sludge shall be tested at the frequency show below in Element 2, Section I.D. for PCBs. Any sludge exceeding a concentration of 50 mg/Kg shall not be surface disposed.
2. Pathogen Control

All sewage sludge that is disposed of in a surface disposal site shall be treated by either the Class A or Class B pathogen requirements unless sewage sludge is placed on an active surface disposal site, and is covered with soil or other material at the end of each operating day.

- a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. All 6 alternatives require either the density of fecal coliform in the sewage sludge be less than 1000 MPN per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land. Below are the additional requirements necessary to meet the definition of a Class A sludge. Alternatives 5 and 6 are not authorized to demonstrate compliance with Class A sewage sludge in Texas permits.

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at a specific value for a period of time. See 503.32(a)(3)(ii) for specific information.

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours. The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12. At the end of the 72 hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%.

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 503.32(a)(5)(ii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 503.32(a)(5)(iii) for specific information.

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed or at the time the sludge is prepared for sale or give away in a bag or other container for application to the land. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed or at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land.

Alternative 5 - Sewage sludge shall be treated by one of the Processes to Further Reduce Pathogens (PFRP) described in 503 Appendix B. PFRPs include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 - Sewage sludge shall be treated by a process that is equivalent to a Process to Further Reduce Pathogens, if individually approved by the Pathogen Equivalency Committee representing the EPA.

- b. Four alternatives are available to demonstrate compliance with Class B sewage sludge. Alternatives 2, 3, and 4 are not authorized to demonstrate compliance with Class B sewage sludge in Texas permits.

Alternative 1 -

- Seven random samples of the sewage sludge shall be collected for one monitoring episode at the time the sewage sludge is used or disposed.
- The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 Most Probable Number per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge shall be treated in one of the Processes to significantly Reduce Pathogens described in 503 Appendix B.

Alternative 3 - Sewage sludge shall be treated in a process that is equivalent to a PSRP, if individually approved by the Pathogen Equivalency Committee representing the EPA.

Alternative 4 - Sewage sludge placed on an active surface disposal site is covered with soil or other material at the end of each operating day.

3. Vector Attraction Reduction Requirements

All sewage sludge that is disposed of in a surface disposal site shall be treated by one of the following alternatives 1 through 11 for Vector Attraction Reduction.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solid of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or an anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or an anaerobic treatment process.

Alternative 9 -

- Sewage sludge shall be injected below the surface of the land.
- No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
- When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10 -

- Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
- When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

Alternative 11 - Sewage sludge placed on an active sewage sludge unit shall be covered with soil or other material at the end of each operating day.

4. Methane Gas Control Within a Structure On Site

When cover is placed on an active surface disposal site, the methane gas concentration in the air in any structure shall not exceed 25% of the lower Explosive limit (LEL) for methane gas during the period that the disposal site is active.

5. Methane Gas Control at Property Line

The concentration of methane gas in air at the property line of the surface disposal site shall not exceed the LEL for methane gas during the period that the disposal site is active.

D. Monitoring Requirements

Methane Gas in covered structures on site - Continuous

Methane Gas at property line - Continuous

All other pollutants shall be monitored at the frequency shown below:

Amount of sewage sludge* (metric tons per 365 day period)	Frequency
0 ≤ Sludge < 290	Once/Year
290 ≤ Sludge < 1,500	Once/Quarter
1,500 ≤ Sludge < 15,000	Once/Two Months
15,000 ≤ Sludge	Once/Month

*Amount of sewage sludge placed on an active sewage sludge unit (dry weight basis).

Representative sample s of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 40 CFR 503.8(b).

SECTION II. REQUIREMENTS SPECIFIC TO SURFACE DISPOSAL SITES WITHOUT A LINER AND LEACHATE COLLECTION SYSTEM.

1. Pollutant limits - Sewage sludge shall not be applied to a surface disposal site if the concentrations of the listed pollutants exceed the corresponding values based on the surface disposal site boundary to the property line distance:

Table 5

Unit boundary to property line distance (meter)	Pollutant concentrations* (mg/kg)			
	Arsenic	Chromium	Nickel	PCB's
0 to < 25	30	200	210	49
25 to < 50	34	220	240	49
50 to < 75	39	260	270	49
75 to < 100	46	300	320	49
100 to < 125	53	360	390	49
125 to < 150	62	450	420	49
≥ 150	73	600	420	49

*Dry weight basis

2. Management practices - Listed in Section I.B. above.
3. Notification requirements

- a. The permittee shall assure that the owner of the surface disposal site provide written notification to the subsequent site owners that sewage sludge was placed on the land.
 - b. The permittee shall provide the location of all existing sludge disposal/use sites to the State Historical Commission within 90 days of the effective date of this permit. In addition, the permittee shall provide the location of any new disposal/use site to the State Historical Commission prior to use of the site.
 - c. The permittee shall within 30 days after notification by the State Historical Commission that a specific sludge disposal/use area will adversely affect a National Historic Site, cease use of such area.
4. Recordkeeping requirements - The permittee shall develop the following information and shall retain the information for five years. The sludge documents will be retained on site at the same location as other NPDES records.
- a. The distance of the surface disposal site from the property line and the concentration (mg/Kg) in the sludge of each pollutant listed above in Table 5, as well as the applicable pollutant concentration criteria listed in Table 5.
 - b. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 503.27(a)(1)(ii) or 503.27(a)(2)(ii) as applicable to the permittees sludge disposal activities.
 - c. A description of how either the Class A or Class B pathogen reduction requirements are met, or whether sewage sludge placed on a surface disposal site is covered with soil or other material at the end of each operating day.
 - d. A description of how the vector attraction reduction requirements are met.
 - e. Results of a groundwater monitoring program developed by a qualified ground-water scientist, or a certification by a qualified groundwater scientist may be used to demonstrate that sewage sludge placed on an active sewage sludge unit does not contaminate an aquifer. A qualified ground water scientist is an individual with a baccalaureate or post graduate degree in the natural sciences or engineering who has sufficient training and experience in groundwater hydrology and related fields, as may be demonstrated by State registration, professional certification or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.
5. Reporting Requirements - None.

SECTION III. REQUIREMENTS SPECIFIC TO SURFACE DISPOSAL SITES WITH A LINER AND LEACHATE COLLECTION SYSTEM.

1. Pollutant limits - None.
2. Management Practices - Listed in Section I.B. above.
3. Notification requirements
 - a. The permittee shall assure that the owner of the surface disposal site provide written notification to the subsequent owner of the site that sewage sludge was placed on the land.
 - b. The permittee shall provide the location of all existing sludge disposal/use sites to the State Historical Commission within 90 days of the effective date of this permit. In addition, the permittee shall provide the location of any new disposal/use site to the State Historical

Commission prior to use of the site. The permittee shall within 30 days after notification by the State Historical Commission that a specific sludge disposal/use area will adversely affect a National Historic Site, cease use of such area.

4. Recordkeeping requirements - The permittee shall develop the following information and shall retain the information for five years. The sludge documents will be retained on site at the same location as other NPDES records.
 - a. The following certification statement found in 503.27(a)(1)(ii):

"I certify, under penalty of law, that the pathogen requirements (define option used) and the vector attraction reduction requirements in (define option used) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine the (pathogen requirements and vector attraction reduction requirements, if appropriate) have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."
 - b. A description of how either the Class A or Class B pathogen reduction requirements are met or whether sewage sludge placed on a surface disposal site is covered with soil or other material at the end of each operating day.
 - c. A description of how the vector attraction reduction requirements are met.
 - d. Results of a ground-water monitoring program developed by a qualified ground-water scientist, or a certification by a qualified ground-water scientist may be used to demonstrate that sewage sludge placed on an active sewage sludge unit does not contaminate an aquifer.
5. Reporting Requirements - None.

ELEMENT 3 - MUNICIPAL SOLID WASTE LANDFILL DISPOSAL

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

1. The permittee shall handle and dispose of sewage sludge in accordance with Section 405 of the Clean Water Act and all other applicable Federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 40 CFR 258 concerning the quality of the sludge disposed in a municipal solid waste land fill.
2. If requirements for sludge management practices or pollutant criteria become more stringent than the sludge pollutant limits or acceptable management practices in this permit, or control a pollutant not listed in this permit, this permit may be modified or revoked and reissued to conform to the requirements promulgated at Section 405(d)(2) of the Clean Water Act.
3. If the permittee generates sewage sludge and supplies that sewage sludge to the owner or operator of a MSWLF for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.
4. The permittee shall give prior notice to EPA (Chief, Permits Branch, Water Management Division, Mail Code 6WQ-P, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202) of any planned changes in the sewage sludge disposal practice, in accordance with 40 CFR Part 122.41(l)(1)(iii). These changes may justify the application of permit conditions that are different

from or absent in the existing permit. Change in the sludge use or disposal practice may be cause for modification of the permit in accordance with 40 CFR Part 122.62(a)(1).

5. The permittee shall provide the location of all existing sludge disposal/use sites to the State Historical Commission within 90 days of the effective date of this permit. In addition, the permittee shall provide the location of any new disposal/use site to the State Historical Commission prior to use of the site. The permittee shall within 30 days after notification by the State Historical Commission that a specific sludge disposal/use area will adversely affect a National Historic Site, cease use of such area.
6. Recordkeeping requirements - The permittee shall develop the following information and shall retain the information for five years. The sludge documents will be retained on site at the same location as other NPD ES records.
 - a. The description and results of the tests performed, required by the owner/operator of the MSWLF to demonstrate compliance with the 40 CFR 258 regulations.
 - b. A certification that sewage sludge meets the requirements in 40 CFR 258 concerning the quality of the sludge disposed in a municipal solid waste land fill unit.
7. Reporting requirements - None.