

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

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
NPDES PERMIT NO. NN0029386**

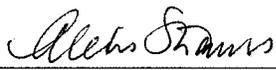
In compliance with the provisions of the Clean Water Act ("CWA") (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and attached standard conditions set forth in this permit:

Discharger Name	Chevron Mining, Inc.
Discharger Address	P.O. Box 4590 Gallup, NM 87305
Facility Name	McKinley Mine
Facility Location Address	24 Miles NW of Gallup on Highway 264 Gallup, NM 87305

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
56 Outfalls from 001 thru 057	Stormwater from Alkaline Mine Drainage, Coal Preparation Areas, Western Alkaline Reclamation Areas.	35° 35' to 35° 43'	108° 53' to 109° 2'	Coal Mine Wash, Defiance Draw, and Bonita Wash Tributaries to Rio Puerco

This permit was issued on:	<i>10/26/09</i>
This permit shall become effective on:	<i>12/01/09</i>
This permit shall expire at midnight on:	<i>11/30/14</i>
In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.	

Signed this 22<sup>nd</sup> day of October, 2009, for the Regional Administrator.

  
\_\_\_\_\_  
Alexis Strauss, Director  
Water Division

**SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**1. Alkaline Mine Drainage Outfalls**

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge mine drainage from the Outfall Numbers listed in Appendix A – “Alkaline Mine Drainage” to the receiving waters listed in Appendix A – “Alkaline Mine Drainage.”

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table A-1: Alkaline Mine Drainage Effluent Limitations and Monitoring Requirements

<b>Effluent Parameter</b>	<b>Units</b>	<b>Monthly Average</b>	<b>Maximum For any 1 day</b>	<b>Monitoring Frequency <sup>(1)</sup></b>	<b>Sampling Type</b>
Flow	MGD	--	--	Continuous	Calculated <sup>(2)</sup>
TSS	mg/L	35	70	1/day <sup>(1)</sup>	Discrete
Iron, total	mg/L	3.5	7.0	1/day <sup>(1)</sup>	Discrete
pH	std. units	between 6.5 to 9.0		1/day <sup>(1)</sup>	Discrete

NOTES:

- (1) Samples shall be taken once during each occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
- (2) To determine total flow in gallons for each discharge and duration of discharge.

**2. Coal Preparation Plants, Storage Areas, and Ancillary Area Runoff Outfalls**

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge runoff from the Outfall Numbers listed in Appendix B – “Coal Preparation & Associated Areas” to the receiving waters listed in Appendix B – “Coal Preparation & Associated Areas”.

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

Table A-2: Coal Preparation Areas Effluent Limitations and Monitoring Requirements

Effluent Parameter	Units	Monthly Average	Maximum For any 1 day	Monitoring Frequency <sup>(1)</sup>	Sampling Type
Flow	MGD	--	--	Continuous	Calculated <sup>(2)</sup>
TSS	mg/L	35	70	1/day <sup>(1)</sup>	Discrete
Oil and Grease	mg/L	15	--	1/day <sup>(1)</sup>	Discrete
Iron, total	mg/L	3.5	7.0	1/day <sup>(1)</sup>	Discrete
pH	std. units	between 6.5 to 9.0		1/day <sup>(1)</sup>	Discrete

NOTES:

- (1) Samples shall be taken once during each occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
- (2) To determine total flow in gallons for each discharge and duration of discharge.

**3. Western Alkaline reclamation, brushing and grubbing, topsoil stockpiling, and regraded area Outfalls.**

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge runoff from the Outfall Numbers listed in Appendix C – “Western Alkaline Reclamation Areas” to the receiving waters listed in Appendix C – “Western Alkaline Reclamation Areas”.

Such discharges shall be limited and monitored by the permittee as specified below. The permittee must:

- a) within 90 days submit a site-specific Sediment Control Plan for EPA approval demonstrating that implementation of the Sediment Control Plan will result in average

annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The Sediment Control Plan shall, at a minimum, identify Best Management Practices (BMPs), including design specifications, construction specifications, maintenance schedules, criteria for inspection, and expected performance and longevity of the BMPs.

b) demonstrate using watershed models that the implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The watershed model must be the same model that is being used to acquire the permittee's SMCRA permit.

c) design, implement, and maintain the BMPs in the manner specified in the approved Sediment Control Plan throughout the term of this permit.

d) revise the Sediment Control Plan to incorporate new areas. As existing outfalls defined in this permit as "alkaline mine drainage" are reclaimed, the approved Sediment Control Plan shall be updated to incorporate the newly reclaimed outfalls into this subpart. A revised Sediment Control Plan and revised watershed model must be submitted to EPA and approved by EPA before it becomes effective. Revisions to the Sediment Control Plan must meet all requirements contained at 40 CFR Part 434.82, and 100% of the drainage area to an outfall that has been disturbed by mining must meet the definition of "western alkaline reclamation, brushing and grubbing, topsoil stockpiling, and regraded areas" (as defined at 40 CFR 434.80) to be considered for coverage. EPA's approval of an updated Sediment Control Plan and reclassification of an existing outfall from "alkaline mine drainage" to a reclaimed area will be considered a minor modification to the permit as described in Section C of this permit.

e) conduct reclamation inspections at least quarterly within the drainage areas associated with the Sediment Control Plan to verify implementatin of the Sediment Control Plan. Each reclamation inspection report shall include, at a minimum, the following items:

- 1) The personnel who conduct the inspection.
- 2) Date(s) on which the inspection was performend.
- 3) A written summary of major observations, including observations of no deficiency.
- 4) Actions that should be taken to correct noted deficiencies.
- 5) Photodocumentation of findings.
- 6) Signature of inpector.

f) provide an annual Sediment Control Plan Report documenting that the facility has met the requirements set forth in this section. The first annual report shall be submitted by January 15, 2011.

**4. Discharges resulting from precipitation events**

a) The permittee is authorized to discharge runoff from Outfall Numbers listed in Appendix A – “Alkaline Mine Drainage” and Appendix B – “Coal Preparation & Associated Areas” resulting from precipitation events less than or equal to a 10-year, 24-hour precipitation event (1.80 inches within a 24 hour period)

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge runoff from all Outfalls resulting from precipitation events less than or equal to a 10-year, 24-hour precipitation event (1.80 inches within a 24 hour period).

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

During precipitation events, samples may be collected from a sampling point representative of the type of discharge, rather than from each point of discharge. At no time shall less than 20% of discharges be sampled. If samples are collected from a representative point, the permittee shall specify in the monitoring narrative: the Outfalls being represented; the rationale for Outfalls being representative including a description of the control measures at each outfall.

Table A-4-a: Discharges from precipitation events less than 10-yr, 24-hr event.

<b>Effluent Parameter</b>	<b>Units</b>	<b>Maximum For any sample</b>	<b>Monitoring Frequency <sup>(1)</sup></b>	<b>Sampling Type</b>
Flow	MGD	--	Continuous	Calculated <sup>(2)</sup>
Settleable Solids (SS)	ml/l	0.5	1/day <sup>(1)</sup>	Discrete
pH	std. units	between 6.5 to 9.0	1/day <sup>(1)</sup>	Discrete

**NOTES:**

- (1) Samples shall be taken once during each occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
- (2) To determine total flow in gallons for each discharge and duration of discharge.

b) Discharges resulting from precipitation events great than a 10-year, 24-hour precipitation event (1.80 inches within a 24 hour period)

During the period beginning on the effective date of this permit and lasting through the date of expiration, the permittee is authorized to discharge runoff from all Outfalls resulting from precipitation events greater than a 10-year, 24-hour precipitation event (1.80 inches within a 24 hour period).

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with other waste source stream and/or discharge to surface waters.

During precipitation events, samples may be collected from a sampling point representative of the type of discharge, rather than from each point of discharge. At no time shall less than 20% of discharges be sampled. If samples are collected from a representative point, the permittee shall specify the Outfalls being represented in the quarterly report narrative.

Table A-4-b: Discharges from precipitation events greater than 10-yr, 24-hr event.

<b>Effluent Parameter</b>	<b>Units</b>	<b>Maximum For any sample</b>	<b>Monitoring Frequency <sup>(1)</sup></b>	<b>Sampling Type</b>
Flow	MGD	--	Continuous	Calculated <sup>(2)</sup>
pH	std. units	between 6.5 to 9.0	1/day <sup>(1)</sup>	Discrete

NOTES:

- (1) Samples shall be taken once during each occurrence or once every 24 hours if the duration of the occurrence is greater than 24 hours.
- (2) To determine total flow in gallons for each discharge and duration of discharge.

## **SECTION B. GENERAL DISCHARGE SPECIFICATIONS**

All discharges shall be free from pollutants in amounts or combinations that, for any duration:

1. Cause injury to, are toxic to, or otherwise adversely affect human health, public safety, or public welfare.
2. Cause injury to, are toxic to, or otherwise adversely affect the habitation, growth, or propagation of indigenous aquatic plant and animal communities or any member of these communities; of any desirable non-indigenous member of these communities; of waterfowl accessing the water body; or otherwise adversely affect the physical, chemical, or biological conditions on which these communities and their members depend.
3. Settle to form bottom deposits, including sediments, precipitates and organic materials, that cause injury to, are toxic to, or otherwise adversely affect the habitation, growth or propagation of indigenous aquatic plant and animal communities or any member of these communities; of any desirable non-indigenous member of these communities; of waterfowl accessing the water body; or otherwise adversely affect the physical, chemical, or biological conditions on which these communities and their members depend.
4. Cause physical, chemical, or biological conditions that promote the habitation, growth, or propagation of undesirable, non-indigenous species of plant or animal life in the water body.
5. Cause solids, oil, grease, foam, scum, or any other form of objectionable floating debris on the surface of the water body; may cause a Elm or iridescent appearance on the surface of the water body; or that may cause a deposit on a shoreline, on a bank, or on aquatic vegetation.
6. Cause objectionable odor in the area of the water body.
7. Cause objectionable taste, odor, color, or turbidity in the water body.
8. Cause objectionable taste in edible plant and animal life, including waterfowl, that reside in, on, or adjacent to the water body.

## **SECTION C. PERMIT REOPENER**

Should any of the monitoring indicate that the discharge causes, has the reasonable potential to cause, or contributes to excursions above water quality criteria, the permit may be reopened for the imposition of water quality based limits and/or whole effluent toxicity limits. Also, this permit may be modified, in accordance with the requirements set forth at 40 CFR Parts 122.44 and 124.14, to include appropriate conditions or limits to address demonstrated effluent toxicity based on newly available information, or to implement any EPA-approved new Tribal or State of New Mexico water

quality standards.

This permit authorizes the discharge of wastewater from over 50 outfalls in 3 distinct subcategories. Throughout the permit term, as mine operations continue in a linear fashion, new outfall locations may become necessary to treat runoff and other outfalls may need to be authorized under a different subcategory. Therefore, EPA may modify the list of Outfalls in the Appendixes during the permit term to add, terminate or reclassify a discharge that occurs during the anticipating course of the existing mining activities. This will be accomplished thru a minor modification of the permit in accordance with 40 CFR Part 122.63. The permit may be reopened to authorize new outfalls for an area not currently being mined through a major modification to the existing permit 40 CFR Part 122.63.

## **SECTION D. MONITORING AND REPORTING**

### **1. Monitoring Requirements**

a) The permittee shall monitor all pollutants listed below at each outfall listed in Appendix A – “Alkaline Mine Drainage” and Appendix B – “Coal Preparation & Associated Areas” once per calendar year when a discharge occurs:

Aluminum, dissolved  
Antimony, dissolved  
Arsenic, dissolved  
Boron, dissolved  
Cadmium, dissolved  
Chromium, total as Cr  
Copper, dissolved  
Lead, dissolved  
Mercury, Total  
Nickel, dissolved  
Selenium, Total  
Silver, dissolved  
Thallium, dissolved  
Zinc, dissolved

b) New Mexico 401 Certification Monitoring Requirements:

The permittee shall monitor all pollutants listed below at each outfall discharging with the State of New Mexico listed in Appendix A – “Alkaline Mine Drainage”, Appendix B – “Coal Preparation & Associated Areas” and Appendix C – “Western Alkaline Reclamation Areas” once per calendar year when a discharge occurs:

<u>Pollutant (total, unless indicated)</u>	<u>Numeric Criteria (µg/l. unless indicated)</u>
Aluminum, dissolved	750
Antimony, dissolved	640
Arsenic, dissolved	9.0
Boron, dissolved	5000
Cadmium, dissolved	hardness dependant – see 20.6.4.900.I
Chromium, dissolved	hardness dependant – see 20.6.4.900.I
Cobalt, dissolved	1000
Copper, dissolved	hardness dependant – see 20.6.4.900.I
Cyanide, weak acid dissociable	5.2
Lead, dissolved	hardness dependant – see 20.6.4.900.I
Mercury	0.77
Nickel, dissolved	hardness dependant – see 20.6.4.900.I
Selenium, total recoverable	5.0
Silver, dissolved	hardness dependant – see 20.6.4.900.I
Thallium, dissolved	6.3
Vanadium, dissolved	100
Zinc, dissolved	hardness dependant – see 20.6.4.900.I
Adjusted gross alpha	15 pCi/L
Radium 226 +Radium 228	30 pCi/L
Aldrin	0.00050
Benzo(a)pyrene	0.18
Gamma-BHC (Lindane)	0.95
Chlordane	0.0081
4,4'-DDT and derivatives	0.001
Dieldrin	0.00054
2,3,7,8-TCDD Dioxin	5.1 E-08
alpha-Endosulfan	0.22
beta-Endosulfan	0.22
Endrin	0.086
Heptachlor	0.52
Heptachlor epoxide	0.52
Hexachlorobenzene	0.0029
PCBs	0.00064
Pentachlorophenol	19
Tetrachloroethylene	33
Toxaphene	0.73

## **2. Reporting of Monitoring Results**

- a. Monitoring results shall be reported on Discharge Monitoring Report ("DMR") forms (EPA No. 3320-1) to be supplied by the EPA Regional Administrator, to the extent that the information reported may be entered on the forms.

Monitoring results obtained during the previous three (3) months shall be summarized for each month and submitted on forms to be supplied by the EPA Regional Administrator, to the extent that the information reported may be entered on the forms. Monitoring results obtained from sampling any discharge shall be entered directly on the DMR forms. In cases where No Discharge has occurred, monitoring results may be reported in narrative format due the large number of outfalls permitted.

The results of all monitoring required by this permit shall be submitted in such a format as to allow direct comparison with the limitations and requirements of the permit. Unless otherwise specified, discharge flow shall be reported in terms of the average flow over that 30 day period. These reports are due January 28, April 28, July 28, and October 28 of each year. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator at the following addresses:

NPDES Compliance Office  
Environmental Protection Agency (WTR-7)  
75 Hawthorne Street  
San Francisco, CA 94105  
Telephone: (415) 972-3505

Navajo Nation Environmental Protection Agency  
Navajo Nation EPA  
P.O. Box 339  
Window Rock, AZ 86515  
Telephone: (928) 871-7185

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

b. For effluent analyses, the permittee shall utilize an EPA-approved analytical method with a Method Detection Limit (MDL) that is lower than the effluent limitations (or lower than applicable water quality criteria if monitoring is required but no effluent limitations have been established.) MDL is the minimum concentration of an analyte that can be detected with 99% confidence that the analyte concentration is greater than zero, as defined by the specific laboratory method listed in 40 CFR Part 136. The procedure for determination of a laboratory MDL is in 40 CFR Part 136, Appendix B.

c. If all published MDLs are higher than the effluent limitations (or applicable criteria concentrations), the permittee shall utilize the EPA-approved analytical method with the lowest published MDL.

d. The permittee shall develop a Quality Assurance (QA) Manual/QA Plan. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. As appropriate and applicable, the QA Manual shall include the details enumerated below. The QA Manual shall be retained on the permittee's premises and be available for review by USEPA, Navajo Nation EPA, or New Mexico Environment Department upon request. The permittee shall review its QA Manual annually and revise it when appropriate. Throughout all field sampling and laboratory analyses, the permittee shall use quality assurance/quality control (QA/QC) procedures as documented in their QA Manual.

- i. Project Management including roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples.
- ii. Sample collection procedures; equipment used; the type and number of samples to be collected including QA/QC samples (i.e., background samples, duplicatives, and equipment or field blanks); preservatives and holding times for the samples (see 40 CFR Part 136.3).
- iii. Identification of the laboratory to be used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; required QC results to be reported (e.g., matrix spike recoveries,

duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken by the permittee or the laboratory as a result of problems identified during QC checks.

- iv. Discussion of how the permittee will perform data review and requirements for reporting of results to USEPA, Navajo Nation EPA, or New Mexico Environment Department to include resolving of data quality issues and identifying limitations on the use of the data.
- e. Sample collection shall be performed as stated in the QA Manual. The QA Manual shall include a discussion on the preservation and handling, preparation and analysis of samples as described in the most recent edition of 40 CFR Part 136.3, unless otherwise specified in this permit.

### **3. Monitoring and Records**

Records of monitoring information shall include:

- a. Date, exact location, and time of sampling or measurements performed, preservatives used;
- b. Individual(s) who performed the sampling or measurements;
- c. Date(s) analyses were performed;
- d. Laboratory(ies) which performed the analyses;
- e. Analytical techniques or methods used;
- f. Any comments, case narrative or summary of results produced by the laboratory. These should identify and discuss QA/QC analyses performed concurrently during sample analyses and should specify whether they met project and 40 CFR Part 136 requirements. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, sample receipt condition, holding times, and preservation.
- g. Summary of data interpretation and any corrective action taken by the permittee.
- h. Effluent limitations for analytes/compounds being analyzed.

### **4. Twenty Four-Hour Reporting of Noncompliance**

The permittee shall report any non-compliance which may endanger human health or the

environment. This information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances to the following persons or their offices:

U.S. EPA Region 9: CWA Compliance Office Manager: (415) 972-3505

Navajo Nation EPA: Attn: Patrick Antonio (928) 871-7185

New Mexico Environment Department: SWQB: (505) 827-0187

If the permittee is unsuccessful in contacting the persons above, the permittee shall report by 9 a.m. on the first business day following the noncompliance. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance has not been corrected, the time it is expected to continue; and steps or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

#### **SECTION E. INSPECTION AND ENTRY**

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and such other documents as may be required by law, to perform inspections under authority of Section 10: Inspection and Entry of the EPA Region 9 "Standard Federal NPDES Permit Conditions," dated June 3, 2002, as attached.

#### **SECTION F. DEFINITIONS**

The following definitions shall apply unless otherwise specified in the permit:

1. "Discrete sample" means any individual sample collected in less than 15 minutes.
2. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar 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 discharges 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 the arithmetic average (weighted by flow value) of all samples collected during that sampling day.
3. “Daily average” discharge limitation means the highest allowable average of “daily discharges” over 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.
  4. “Daily maximum” concentration means the measurement made on any single discrete sample of composite sample.
  5. “Daily maximum” mass limit means the highest allowable “daily discharge” by mass during any calendar day.
  6. A “composite sample” means, for flow rate measurements, the arithmetic mean of no fewer than 4 individual measurements taken at equal intervals for one hour or for the duration of discharge, whichever is shorter. A composite sample means, for other than flow rate measurements, a combination of 4 individual portions obtained at equal time intervals for 4 hours or for the duration of the discharge, whichever is shorter. The volume of each individual portion shall be directly proportional to the discharge flow rate at the time of sampling. The sampling period shall coincide with the period of maximum discharge flow.
  7. A “monthly or weekly average” concentration limitation means the arithmetic mean of consecutive measurements made during a calendar month or weekly period, respectively.
  8. A “monthly or weekly average” mass limitation means the total discharge by mass during a calendar monthly or weekly period, respectively, divided by the number of days in the period that the facility was discharging. Where less than daily sampling is required by this permit, the monthly or weekly average value shall be determined by the summation of all the measured discharges by mass divided by the number of days during the monthly or weekly period when the measurements were made.

**APPENDIX A – “Alkaline Mine Drainage”**

<u>Serial Number/ Outfall Number</u>	<u>Latitude Deg.Min.Sec.</u>	<u>Longitude Deg.Min.Sec.</u>	<u>Receiving Water</u>	<u>Location</u>
001 / 1N	35-40-38.78	108-59-27.14	Coal Mine Wash to Rio Puerco	NAVAJO
002 / 3N	35-40-34.95	108-59-30.41	Coal Mine Wash to Rio Puerco	NAVAJO
003 / 5N	35-40-10.91	108-59-50.63	Coal Mine Wash to Rio Puerco	NAVAJO
004 / 6S	35-36-59.67	108-29- 8.01	Defiance Draw to Rio Puerco	NM
005 / 7S	35-37- 7.32	108-59- 1.45	Defiance Draw to Rio Puerco	NM

**APPENDIX B – “Coal Preparation & Associated Areas”**

<u>Serial Number/ Outfall Number</u>	<u>Latitude Deg.Min.Sec.</u>	<u>Longitude Deg.Min.Sec.</u>	<u>Receiving Water</u>	<u>Location</u>
006 / 15-1	35-40-18.56	108-53-17.22	Defiance Draw to Rio Puerco	NAVAJO
007 / 16-1	35-40-32.22	108-52-34.60	Defiance Draw to Rio Puerco	NAVAJO
008 / 15-2	35-40-39.33	108-53-19.85	Defiance Draw to Rio Puerco	NAVAJO

**APPENDIX C – “Western Alkaline Reclamation Areas”**

<u>Serial Number/ Outfall Number</u>	<u>Latitude Deg.Min.Sec.</u>	<u>Longitude Deg.Min.Sec.</u>	<u>Receiving Water</u>	<u>Location</u>
009 /CB 1-7	35° 39' 55.7388	-108° 59' 28.251"	Coal Mine Wash	NAVAJO
010/DC 1	35° 40' 39.6042"	-108° 59' 32.1756"	Coal Mine Wash	NAVAJO
011 /CB 6-3	35° 43' 31.6596"	-108° 55' 47.4666"	Coal Mine Wash	NAVAJO
012 /CB 6-7	35° 43' 39.2808"	-108° 55' 30.5322"	Coal Mine Wash	NAVAJO
013 /SP 3-6	35° 41' 24.6654"	-108° 56' 25.5618"	Tse Bonita Wash	NAVAJO
014 /SP 3-5	35° 40' 49.1082"	-108° 56' 44.1882"	Tse Bonita Wash	NAVAJO
015 /EW-7	35° 40' 4.9404"	-108° 53' 50.6754"	Defiance Draw	NAVAJO
016 /EW-9	35° 39' 55.7742"	-108° 54' 18.5718"	Defiance Draw	NAVAJO
017 /CB 2-21	35° 40' 6.78"	-108° 57' 12.9738"	Tse Bonita Wash	NAVAJO
018 /CB 2-2	35° 39' 38.8404"	-108° 57' 46.839"	Tse Bonita Wash	NAVAJO
019 /CB 2-5	35° 39' 32.0682"	-108° 58' 3.7704"	Tse Bonita Wash	NAVAJO
020 /SP 10-17	35° 38' 28.8132"	-108° 58' 20.9676"	Defiance Draw	NAVAJO
021 /CB 10-6	35° 38' 26.8794"	-108° 58' 31.71"	Defiance Draw	NAVAJO
022 /CB 10-3	35° 38' 42.9648"	-108° 59' 5.5746"	Tse Bonita	NAVAJO
023 /CB 1-5	35° 38' 48.0438"	-108° 59' 8.9586"	Tse Bonita Wash	NAVAJO
024 /DC 2	35° 38' 43.9656"	-108° 59' 18.3336"	Tse Bonita Wash	NAVAJO
025 /SP 10-28	35° 39' 16.3398"	-108° 58' 56.0028"	Tse Bonita Wash	NAVAJO
026 /CB 10-29	35° 38' 54.816"	-108° 58' 54.5664"	Tse Bonita Wash	NAVAJO
027 /SP 10-1	35° 38' 51.432"	-108° 58' 52.8738"	Tse Bonita Wash	NAVAJO

051 /DC 3	35° 37' 47.496"	-109° 2' 7.5876"	Tse Bonita Wash	NAVAJO
052 /DC 4	35° 37' 48.0324"	-109° 2' 5.553"	Tse Bonita Wash	NAVAJO
053 /DC 5	35° 37' 47.9238"	-109° 2' 2.979"	Tse Bonita Wash	NAVAJO
054 /DC 6	35° 37' 49.1052"	-109° 1' 57.2988"	Tse Bonita Wash	NAVAJO
055 /DC 7	35° 37' 58.7496"	-109° 1' 53.2272"	Tse Bonita Wash	NAVAJO
056 /DC 8	35° 37' 50.6064"	-109° 1' 43.0458"	Tse Bonita Wash	NAVAJO
057 /DC 9	35° 37' 55.6422"	-109° 1' 24.5022"	Tse Bonita Wash	NAVAJO
028	INTENTIONALLY LEFT BLANK			
029 /CB 10-4	35° 38' 15.0246"	-108° 58' 56.2614"	Defiance Draw	NM
030 /CB 10-18	35° 38' 11.6406"	-108° 58' 37.635"	Defiance Draw	NM
031 /CB 10-10	35° 39' 15.984"	-108° 58' 21.5502"	Tse Bonita Wash	NM
032 /CB 10-27	35° 38' 27.726"	-108° 57' 57.8448"	Defiance Draw	NM
033 /SP 12-8	35° 39' 16.8294"	-108° 55' 19.527"	Defiance Draw	NM
034 /PI 11-9	35° 38' 52.2774"	-108° 55' 24.6066"	Defiance Draw	NM
035 /CB 11-5	35° 38' 38.7312"	-108° 55' 13.602"	Defiance Draw	NM
036 /CB 9-35	35° 37' 25.0752"	-108° 55' 2.5968"	Defiance Draw	NM
037 /CB 9-33	35° 36' 12.2688"	-108° 55' 16.1394"	Defiance Draw	NM
038 /CB 9-37	35° 36' 5.493"	-108° 55' 21.2196"	Defiance Draw	NM
039 /CB 9-38	35° 35' 27.3984"	-108° 55' 55.9308"	Defiance Draw	NM
040 /CB 9-24	35° 35' 25.7028"	-108° 56' 41.6502"	Defiance Draw	NM
041 /CB 9-25	35° 35' 23.1642"	-108° 57' 17.2074"	Defiance Draw	NM
042 /CB 9-26	35° 35' 24.8562"	-108° 57' 30.7506"	Defiance Draw	NM
043 /CB 9-9	35° 35' 38.403"	-108° 57' 28.2126"	Defiance Draw	NM
044 /CB 9-8	35° 35' 49.4082"	-108° 57' 44.298"	Defiance Draw	NM
045 /CB 9-7	35° 36' 10.5726"	-108° 57' 56.9988"	Defiance Draw	NM
046 /CB 9-15	35° 37' 8.418"	-108° 57' 10.35"	Defiance Draw	NM
047 /CB 9-17	35° 37' 8.6916"	-108° 56' 51.6084"	Defiance Draw	NM
048 /CB 9-20	35° 36' 51.5808"	-108° 56' 37.215"	Defiance Draw	NM
049 /CB 9-19	35° 36' 47.5056"	-108° 56' 27.9816"	Defiance Draw	NM
050 /CB 9-21	35° 36' 36.9138"	-108° 56' 21.462"	Defiance Draw	NM



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**CWA STANDARDS AND PERMITS OFFICE (WTR-5)**

**STANDARD FEDERAL NPDES PERMIT CONDITIONS**

Updated as of June 3, 2002

Reference: CFR 40 Parts 100 to 135, July 1, 2001

**1. DUTY TO REAPPLY [40 CFR 122.21 (d)]**

The permittee shall submit a new application 180 days before the existing permit expires. 122.2(c)(2) POTW's with currently effective NPDES permits shall submit with the next application the sludge information listed at 40 CFR 501.15(a)(2).

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; or

**2. APPLICATIONS [40 CFR 122.22]**

(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:

(i) 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

(ii) 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

(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: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, 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 in paragraph (a) of this section;

(2) The authorization specifies either an individual or 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, 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 any individual occupying a named position.) and,

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

(c) Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Certification. Any person signing a document under paragraph (a) or (b) of 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 gather and evaluate 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **3. DUTY TO COMPLY [40 CFR 122.41(a)]**

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

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for

sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of 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. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or 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. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of the Act, or any permit condition of limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of 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.

(3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

**4. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE [40 CFR 122.41(c)]**

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.

**5. DUTY TO MITIGATE [40 CFR 122.41(d)]**

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

**6. PROPER OPERATION AND MAINTENANCE [40 CFR 122.41(e)]**

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 the permittee to 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 the permit.

**7. PERMIT ACTIONS [40 CFR 122.41(f)]**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a

request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**8. PROPERTY RIGHTS [40 CFR 122.41(g)]**

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

**9. DUTY TO PROVIDE INFORMATION [40 CFR 122.41(h)]**

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.

**10. INSPECTION AND ENTRY [40 CFR 122.41(i)]**

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**11. MONITORING AND RECORDS [40 CFR 122.41(j)]**

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

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), 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.

(3) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

(4) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

(5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly

renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

#### **12. SIGNATORY REQUIREMENT [40 CFR 122.41(k)]**

(1) All applications, reports, or information submitted to the Director shall be signed and certified. [See 40 CFR 122.22]

(2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

#### **13. REPORT REQUIREMENTS [40 CFR 122.41(l)]**

(1) Planned changes. 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:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Sec. 122.29(b); or

(ii) 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 under Sec. 122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(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 Clean Water Act. (See Sec. 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The

arithmetic mean unless otherwise specified by the Director in the permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; 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 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See Sec. 122.41(g).)

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See Sec. 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(ii) of this section if the oral report has been received within 24 hours.

reports shall contain the information listed in paragraph (1)(6) of this section.

(8) 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.

#### 14. BYPASS [40 CFR 122.41(m)]

##### (1) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) 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.

(2) 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 paragraphs (m)(3) and (m)(4) of this section.

##### (3) Notice.

(i) 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.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24\_hour notice).

##### (4) Prohibition of bypass.

(i) 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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under paragraph (m) (3) of this section.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

#### 15. UPSET [40 CFR 122.41(n)]

(1) Definition. 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.

(2) 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 paragraph (n)(3) of this section 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.

(3) 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:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(b) of this section (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

**16. EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS  
[40 CFR 122.42(a)]**

In addition to the reporting requirements under Sec. 122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100  $\mu\text{g/l}$ );

(ii) Two hundred micrograms per liter (200  $\mu\text{g/l}$ ) for acrolein and acrylonitrile; five hundred micrograms per liter (500  $\mu\text{g/l}$ ) for 2,4-dinitrophenol and for 2-methyl-4,

6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g) (7); or

(iv) The level established by the Director in accordance with Sec. 122.44(f).

(2) That any activity has occurred or will occur which would result in any discharge, on a non-routine 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":

(i) Five hundred micrograms per liter (500  $\mu\text{g/l}$ );

(ii) One milligram per liter (1 mg/l) for antimony;

(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Sec. 122.21(g)(7).

(iv) The level established by the Director in accordance with Sec. 122.44(f).

**17. PUBLICLY OWNED TREATMENT WORKS  
[40 CFR 122.42(b)]**

This section applies only to publicly owned treatment works (POTWs) as defined at 40 CFR 122.22.

(a) All POTWs must provide adequate notice to the Director of the following:

(1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; and

(2) Any substantial change in the volume or character of pollutants being introduced into that

POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

(3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) [The following condition has been established by Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act] Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR 270. Hazardous wastes are defined at 40 CFR 261.31 - 261.33. The Domestic Sewage Exclusion (40 CFR 261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

(c) Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under Sec. 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

(1) The status of implementing the components of the storm water management program that are established as permit conditions;

(2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with Sec. 122.26(d)(2)(iii) of this part; and

(3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Sec. 122.26(d)(2)(iv) and (d)(2)(v) of this part;

(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

(5) Annual expenditures and budget for year following each annual report;

(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs;

(7) Identification of water quality improvements or degradation;

(d) Storm water discharges. The initial permits for discharges composed entirely of storm water issued pursuant to Sec. 122.26(e)(7) of this part shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

#### **18. REOPENER CLAUSE [40 CFR 122.44(c)]**

For any permit issued to a treatment works treating domestic sewage (including "sludge\_only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

#### **19. PRIVATELY OWNED TREATMENT WORKS [40 CFR 122.44(m)]**

For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co\_permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user.

---

The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

**20. TRANSFERS BY MODIFICATION**  
**[40 CFR 122.61(a)]**

Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Sec. 122.62 (b)(2)), or a minor modification made (under Sec.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

**21. AUTOMATIC TRANSFERS**  
**[40 CFR 122.61(b)]**

As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be automatically transferred to a new permittee if:

(1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;

(2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under Sec. 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

**22. MINOR MODIFICATIONS OF PERMITS**  
**[40 CFR 122.63]**

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in Sec. 122.62. Minor modifications may only:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

(d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.

(e) (1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Sec. 122.29.

(2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

(f) [Reserved]

(g) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

**23. TERMINATION OF PERMITS**  
**[40 CFR 122.64]**

(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

**24. AVAILABILITY OF REPORTS**  
**[Pursuant to Clean Water Act Section 308]**

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

**25. REMOVED SUBSTANCES**  
**[Pursuant to Clean Water Act Section 301]**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such

materials from entering navigable waters.

**26. SEVERABILITY**  
**[Pursuant to Clean Water Act Section 512]**

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 remainder of the permit, shall not be affected thereby.

**27. CIVIL AND CRIMINAL LIABILITY**  
**[Pursuant to Clean Water Act Section 309]**

Except as provided in permit conditions on "Bypass" (Section 14) and "Upset" (Section 15), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

**28. OIL AND HAZARDOUS SUBSTANCE LIABILITY**  
**[Pursuant to Clean Water Act Section 311]**

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 Clean Water Act.

**29. STATE OR TRIBAL LAW**  
**[Pursuant to Clean Water Act Section 510]**

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