



Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102

NPDES Permit No. NM0030759

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"),

Los Alamos National Laboratory (LANL), managed and owned by Permittees

Newport News Nuclear BWXT-Los Alamos, LLC and U.S. Department of Energy
1200 Trinity Dr. Suite 150
Los Alamos, New Mexico 87544

Office of Environmental Management
Los Alamos Field Office
P.O. Box 1663
Los Alamos, New Mexico
87545-1663

is authorized to discharge storm water associated with industrial activities from specified solid waste management units (SWMUs) and areas of concern (AOCs) (as identified in Appendix A and referred to herein as "Sites") from the facility located at Los Alamos, New Mexico, to receiving waters named:

Tributaries or main channels of Mortandad Canyon, Canada del Buey, Los Alamos Canyon, DP Canyon, Sandia Canyon, Ten Site Canyon, Canyon de Valle, Water Canyon, Ancho Canyon, Bayo Canyon, Chaquehui Canyon, Fence Canyon, Pajarito Canyon, Twomile Canyon, Threemile Canyon, Potrillo Canyon, Pueblo Canyon, and Rendija Canyon, in Water Body Segment No. 20.6.4.98, 20.6.4.126, 20.6.4.128 or 20.6.4.114 of the Rio Grande Basin,

in accordance with this cover page and monitoring requirements, and other conditions set forth in the Requirements for NPDES Permits and Appendices, hereof.

This permit, prepared by Isaac Chen (R) and Ruben Alayon-Gonzalez, Environmental Engineer, Permitting Section (6WDPE), supersedes and replaces the administratively continued NPDES Permit No. NM0030759 issued February 13, 2009, then modified September 30, 2010, with an expiration date of March 31, 2014.

This permit shall become effective on August 1, 2022

This permit and the authorization to discharge shall expire at midnight, July 31, 2027

Issued on June 29, 2022

Charles W. Maguire
Director
Water Division

BLANK PAGE

TABLE OF CONTENTS**PART I. REQUIREMENTS FOR NPDES PERMITS**

1. Purpose
2. Coverage
3. Permit Compliance

I.A. NON-NUMERIC TECHNOLOGY BASED EFFLUENT LIMITATIONS

1. Effluent Limits Requiring Structural Control Measures
2. Effluent Limits Requiring Nonstructural Control Measures

I.B. MONITORING REQUIREMENTS

1. Confirmation Sampling
2. Sampling Locations
3. Sampling Procedures
4. Collection of Partial Samples
5. Additional Sampling Requirements
6. Sufficiently Sensitive Method (SSM)
7. Data Averaging
8. Inspections
 - a. Significant Event Inspections
 - b. Post-Storm Inspection
 - c. Long-term Stewardship Inspection
 - d. Inspection Reports

I. C. EVALUATIONS

1. Target Action Levels (TALs)
2. Site-Specific Demonstration (SSD)
3. Long Term Stewardship Category
4. Deletion of Site

I.D. CORRECTIVE ACTION

1. Determination of Corrective Action Measures
2. Alternative Compliance
3. Schedules for Corrective Actions
4. Completion of Corrective Action Certification

I.E. PLANS and REPORTS

1. Site Discharge Pollution Prevention Plan (SDPPP)
2. Annual Sampling Implementation Plan (SIP)
3. Annual Compliance Status Report (CSR)

Part II. OTHER CONDITIONS

1. Watershed Protection Approach
2. Recordkeeping
3. Public Involvement
4. State Water Quality Standards
5. Permit Reopener

APPENDIX A: SITES COVERED BY PERMIT

APPENDIX B: TARGET ACTION LEVELS (TALs)

APPENDIX C: STORM WATER BACKGROUND THRESHOLD VALUES (BTVs)

APPENDIX D: MINIMUM QUANTIFICATION LEVELS (MQLs)

APPENDIX E: SAMPLING IMPLEMENTATION PLANS (SIPs)

BLANK PAGE

PART I. REQUIREMENTS FOR NPDES PERMITS**1. Purpose**

This Permit contains non-numeric technology-based effluent limitations, coupled with a comprehensive, coordinated monitoring program and corrective action where necessary, to minimize Site-related pollutants of concern (POC) in Permittees' storm water discharges. As used in this Permit, "minimize" means to reduce and/or eliminate discharges of Site-related POCs in storm water to the extent achievable using Site-specific control measures (including best management practices) that reflect best industry practice considering their technological availability, economic achievability and practicability.

The Permittees are required to implement Site-specific control measures (including best management practices) to address the non-numeric technology-based effluent limits contained in this Permit, followed by confirmation monitoring screened against New Mexico water-quality criteria-equivalent target action levels (TALs) to determine the effectiveness of the Site-specific measures. A list of applicable TALs is included as Appendix B to this Permit. Any TAL exceedances may be evaluated taking into account background threshold values (BTVs), included as Appendix C to this Permit, for those POCs that may be released by natural (undeveloped) or urban (developed) environments and may not be Site-related (see Part I.C.2.). The Permittees must also develop, maintain, and update a Site Discharge Pollution Prevention Plan (SDPPP) and Sampling Implementation Plan (SIP) consistent with Part I.E of this Permit. Collectively, these plans describe the control measures used to meet the requirements of this Permit.

2. Coverage

This Permit authorizes only those storm water discharges associated with industrial activity from inactive solid waste management units (SWMUs) and areas of concern (AOCs) listed in Appendix A. The SWMUs and AOCs identified in Appendix A are collectively referred to throughout this Permit as "Sites." This Permit does not authorize storm water discharges associated with current conventional industrial activities at LANL. Storm water discharges associated with current conventional industrial activities are covered under U.S. Environmental Protection Agency's (EPA's) National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from industrial activity, also known as the Multi-Sector General Permit (MSGP). Unless otherwise specified, references to "industrial activity" or "industrial storm water" under this Permit refer to the definition of "storm water discharge associated with industrial activity" at 40 C.F.R. § 122.26(b)(14).

3. Permit Compliance

Any noncompliance with any of the requirements of this Permit, except for exceptions provided in the Permit, constitutes a violation of the CWA. Failure to take any required corrective actions constitute an independent violation of this Permit and the CWA. Where corrective action is triggered by an event that does not itself constitute Permit noncompliance, such as an exceedance of applicable TALs and/or composite BTVs (per Part I.C.2), there is no violation of the Permit, provided the Permittees take the required corrective action within the relevant deadlines.

PART I.A. NON-NUMERIC TECHNOLOGY BASED EFFLUENT LIMITATIONS

For all Sites identified in Appendix A of this Permit, the Permittees shall install and/or maintain structural and nonstructural control measures as necessary to meet the non-numeric technology-based effluent limits to minimize Site-related POCs in storm water discharges. Nothing in this Permit relieves the Permittees of

the obligation to implement additional control measures required by other Federal authorities or by a State or local authority. Structural control measures, the installation of which involve the discharge of dredge or placement of fill material into any receiving waters (e.g., wetlands), may require a separate permit under section 404 of the Clean Water Act (CWA) before installation. Nothing in this permit relieves the permittees of the obligation to comply with New Mexico Water Law including 19.16.2.15(B) NMAC requirement regarding water retention for longer than 96 hours.

1. Effluent Limits Requiring Structural Control Measures

a. The Permittees must implement structural control measures to meet the following non-numeric technology based effluent limits:

- (i) Erosion and Sedimentation Controls. The Permittees must minimize discharges of POCs caused by onsite erosion and sedimentation. The Permittees must implement structural, vegetative, and/or stabilization control measures as necessary to achieve this requirement.
- (ii) Management of Run-on and Runoff. The Permittees must, to the extent practicable, divert, infiltrate, reuse, contain, detain, or otherwise reduce storm water run-on/runoff to minimize Site-related POCs from discharging to receiving waters.
- (iii) Other Controls. The Permittees must do the following where applicable:
 - (a) Implement controls to prevent the discharge of waste, garbage, or floatable debris to receiving waters, except as authorized by a permit issued under section 404 of the CWA;
 - (b) Minimize the generation of dust, along with vehicles tracking raw, final, or waste materials or sediments off-site;
 - (c) Minimize the introduction of raw, final, or waste materials to exposed areas;
 - (d) Minimize the effects of any increase in downstream erosion resulting from the construction and operation of structural controls; and
 - (e) Place flow velocity dissipation devices at discharge locations and along the length of any discharge channel if the flows would otherwise create erosive conditions.

b. The Permittees must maintain structural control measures in effective operating condition. Failure to do so is a violation of this Permit. (Note: NMED Surface Water Quality Bureau and NMED Hazardous Waste Bureau worked with the Permittees to develop a sediment removal decision tree that accounts for both hazardous waste and surface water regulatory requirements for removal of sediments accumulated in stormwater retention facilities. This decision tree, which was an attachment to the NMED CWA 401 Certification dated 2/22/22, may be used for guidance to assist in decision making regarding maintenance of BMPs required by this Permit.) These maintenance requirements under this Permit do not apply to:

- (i) A Site that has been removed from the Permit so that storm water discharges associated with industrial activity under 40 CFR 122.26(b)(14) are no longer authorized under this permit, or
- (ii) A control measure that has been replaced by another control measure, or
- (iii) A control measure that has been retired because it is no longer necessary to meet the non-numeric effluent limits set out under Part I.A.1(a).

c. The Permittees must keep documentation onsite that describes procedures and a plan for inspection and preventative maintenance of all structural control measures and specifies backup practices to be used should a runoff event occur while a structural control measure is off-line. Nonstructural control measures must also be diligently maintained (e.g., employee training described in Part I.A.2.a). Nothing in this Permit shall be construed to prevent the Permittees from taking action(s) to modify control measures as appropriate to address deficiencies.

d. If, at any time, including during an inspection, a structural control measure is identified as not functioning properly, the Permittees must repair or replace the control before the next anticipated storm event if possible, or as soon as practicable, following that storm event. In the interim, the Permittees must have backup measures in place.

e. The requirements of Parts I.A.1.b. – d. above, regarding inspection and maintenance of control measures, apply to existing as well as enhanced control measures.

f. Soil Disturbance Associated with the Installation or Repair of Structural Control Measures

If the installation or repair of structural control measures at a Site involves disturbance of soil at the Site, the Permittees shall temporarily suspend any required sampling activities and take all necessary steps to minimize migration of sediments and runoff from the disturbed Site. Steps taken to minimize discharges of contaminated runoff during remediation activity shall be included in the SDPPP update. The Permittees shall conduct site inspections once a week while installing control measures to ensure sediment and runoff control measures are maintained in good working order. If deficiencies in sediment and runoff control measures are noted, remedial action shall be taken as soon as possible but no later than the end of the next working day. If correction of the deficiency requires installation of a new or replacement control measure or significant repair to the existing control measure, the Permittees shall install the fully new or modified control measure, or complete the repair, by no later than seven (7) calendar days from the time of discovery. If it is infeasible to complete the installation or repair within seven (7) calendar days, the Permittees must document in the SDPPP why it is infeasible to complete the installation or repair within the 7-day timeframe and document the schedule for installing the operational control(s) or completing the repairs as soon as feasible after the 7-day timeframe. After completion of remediation activities, the Permittees shall reactivate the sampler and analyze any storm water samples in accordance with Part I.B.1.,

Storm water discharges associated with construction activity disturbing one (1) acre or more are not covered under this Permit. Storm water discharges associated with construction activity disturbing one acre or more must be covered under EPA's Construction General Permit (CGP) or through a separate individual NPDES permit.

2. Effluent Limits Requiring Nonstructural Control Measures

a. Training. The Permittees must provide training at least once per year to employees who are responsible for implementing activities identified in the Permit and the SDPPP (e.g., inspectors, maintenance personnel), including members of the Site Discharge Pollution Prevention Team (referred to as Pollution Prevention Team in this Permit). Training must

cover the specific components of the Permit, the scope of the SDPPP, and the control measures required under this Part. The Permittees shall maintain records of employee training with the SDPPP as detailed in Part I.E.1.b below.

b. **Unauthorized Discharges.** The Permittees must eliminate non-storm water discharges (e.g., process wastewater, spills or leaks of toxic or hazardous materials, contaminated groundwater, or any contaminated non-storm water) not authorized by an NPDES permit. Minor non-storm water discharges such as uncontaminated fire hydrant/sprinkler test water, water line flushing (dechlorinated), firefighting, building washing (no cleaning agents), HVAC condensate, irrigation, etc. are allowed.

PART I.B. MONITORING REQUIREMENTS

The Permittees shall monitor POCs in storm water discharges from Sites at specified sampling points known as Site Monitoring Areas (SMAs). The SMAs and POCs applicable to each Site are specified in the SDPPP and the SIP as detailed in Part I.E. below. The Permittees shall perform confirmation monitoring as detailed below following installation of each certified control measure. The Permittees are also required to conduct regular inspections of all Sites as described under Part I.B.8 to ensure that all control measures are properly operating.

1. Confirmation Sampling

This Permit is a reissuance of NPDES Permit No. NM0030759, which expired on March 31, 2014 and was administratively continued pursuant to 40 C.F.R. 122.6 (“the Previous Permit”) If, under the Previous Permit, all analytical results(s) for a particular POC at a particular SMA listed in Appendix A were at or below the maximum target action level (MTAL) and/or the geomean of all analytical sampling result(s) was at or below the average target action level (ATAL), monitoring of that POC at the same SMA is not required under this Permit, unless the sampling location was moved or POCs were added to the monitoring site during the SIP evaluation conducted in conjunction with NMED during 2016-2018.

Confirmation monitoring is used to determine the effectiveness of control measure installations, and to inform the Permittees if additional corrective actions are necessary. There are several categories of confirmation monitoring required by this Permit;

a. After control measures are installed (other than those measures covered under Part I.B.1. (b) – (d) below) and confirmation monitoring is initiated under this Permit, the Permittees shall collect two confirmation samples within two years. If the Permittees are unable to collect a second sample within two years, the results of the single sample collected may be considered to be representative of the discharge from that Site. The Permittees will not be considered in violation of the Confirmation Sampling requirements of the Permit if confirmation samples cannot be collected due to lack of sufficient discharge/run-off volume.

For Sites at which one confirmation sample was collected under the Previous Permit, but where the Permittees have been unable to collect a second sample, upon issuance of this Permit, the Permittees may use the results from the single sample collected under the Previous Permit. For purposes of this paragraph, for Sites where control measures were installed under the previous permit (including the time it was administratively continued), the two-year sampling collection timeframe will be considered to have begun after validated data is/was received by the Permittees from the first sample collected.

- b. After construction of a cap or other engineered cover, one confirmation sample is required if the capped area is smaller than the SMA drainage area. Otherwise, no further confirmation sampling is required, unless required by Part I.B.5.
- c. Following certification of completion of soil removal in accordance with Part I.D.1.b.ii, the Permittees shall collect two confirmation samples within two years. If no TALs are exceeded for two samples, then further monitoring is not required for the remainder of this Permit and the Permittees may seek to delete the Site or Sites from the Permit pursuant to Part I.C.4. If the Permittees are unable to collect a second sample within two years, the results of the single sample collected may be considered to be representative of the discharge from that Site or Sites.
- d. After installation of control measures that retain a volume of storm water runoff from a Site or SMA that is equivalent to a 3-year, 24-hour storm event or greater, the Permittees will be in compliance with this Permit at that Site or SMA once they have certified through the submission of certified as-built drawings, that such measures have been properly installed to perform their function to retain the appropriate design volume of storm water. No further confirmation monitoring is required post-certification, unless required by Part I.B.5.

2. Sampling Locations

All samples collected for purposes of confirmation monitoring shall be collected in accordance with the monitoring requirements specified below at the SMAs identified in Appendix A of this Permit. SMA locations are based on reasonable site accessibility for sampling purposes and samples taken must be representative of discharges of storm water from Site-affected media (soil, sediment, or bedrock) as determined by the SIP. The drainage area of each SMA shall be representative of the Site or Sites within the SMA.

- a. **Sampler location adjustments.** The Permittees may move a sampler to make adjustments that arise from changes in natural conditions, installation of structural controls, unexpected events, or as otherwise necessary to ensure the sampling location is representative of storm water discharges from the Site-affected media (soil, sediment, or bedrock) as delineated by soil sampling data. Such changes may include minor updates in Site boundaries, changes in storm water drainage patterns, or adjustments due to logistical or security issues. Any such movement of a sampler shall be documented in the annual update to the SIP and SDPPP.
- b. **Sampler additions:** In case potential discharges from a Site within an SMA do not flow through the current monitoring location identified in the Annual SIP, the Permittees shall add additional sampling locations during the Permit term in order to collect additional confirmation investigation samples. Each additional sampling location and the corresponding sampling results are subject to the sampling, reporting, inspection, and corrective action requirements of this Permit.

3. Sampling Procedures

Any sampling performed for purposes of confirmation monitoring at a particular SMA must be performed after installation of applicable control measures and following a storm event that results in an actual discharge from the Site or Sites and that produces sufficient volume to perform some or all of the required analyses (referred to herein as a “measurable storm event”). For each sampling event, the Permittees must identify the date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff, and the duration between the storm event sample collection and the end of the previous measurable storm event. The Permittees may take meteorological information from the nearest meteorological tower or rain gage. Snowmelt samples shall not be used for purposes of confirmation monitoring.

Grab samples shall be taken within the first thirty (30) minutes of (or as soon after as practical but beginning no later than one (1) hour after) a measurable storm event.

Unless otherwise specified in this permit, the term "composite sample" means samples collected either by an automatic sampler or by manual, during the whole or part of a rainfall period, are composited prior to an analysis. The Permittees may use either grab samples or composite samples for monitoring purpose if it keeps practice consistency.

4. Collection of Partial Samples

In the event the volume of any stormwater sample collected is insufficient to perform all required analyses listed in the SIP, the partial sample shall be analyzed in accordance with a priority list of Site-specific POCs determined based upon a review of site history, soil data, and other acceptable knowledge. The priority list for each Site is documented in the SIP.

For Sites discharging to impaired and water quality-limited waters (see table below), if the pollutants for which the water body is impaired are determined to be Site-related, as demonstrated under Part I.C.2 of the permit (Site Specific Demonstration), the Permittees shall include the Site-related pollutants of impairment on the priority list for each Site in the SIP and shall prioritize these pollutants for analysis in the event a partial sample is collected. If there are insufficient data to determine if a pollutant causing an impairment is Site-related, the Permittees shall prioritize analysis of the pollutants causing impairments in the event a partial sample is collected.

<u>Canyon Name</u>	<u>Waterbody Segment</u>	<u>2022-2024 Impairments (CWA §303d)</u>
Acid	20.6.4.98	Pueblo to headwaters: adjusted gross alpha, polychlorinated biphenyls (PCBs), dissolved copper, total recoverable aluminum
Ancho	20.6.4.128	<ul style="list-style-type: none"> • North Fork to headwaters: PCBs • Rio Grande to Ancho Springs: PCBs, total mercury • Above Ancho Springs to North Fork Ancho: PCBs, total mercury
Arroyo de la Delfe	20.6.4.128	Above Kieling Spring to headwaters: dissolved copper, PCBs, total recoverable aluminum, adjusted gross alpha Pajarito Canyon to Kieling Spring: dissolved copper, PCBs, total recoverable aluminum, adjusted gross alpha
Bayo	20.6.4.98	San Ildefonso boundary to headwaters: Not assessed.

<u>Canyon Name</u>	<u>Waterbody Segment</u>	<u>2022-2024 Impairments (CWA §303d)</u>
Canada del Buey	20.6.4.128	Within LANL: PCBs, adjusted gross alpha
Canon de Valle	20.6.4.126 (perennial), 20.6.4.128, 20.6.4.98	<ul style="list-style-type: none"> LANL gage E256 to Burning Ground Spring: PCBs below LANL gage E256: adjusted gross alpha upper LANL boundary to headwaters: PCBs, adjusted gross alpha
Chaquehui	20.6.4.128	Within LANL: PCBs
DP	20.6.4.128	<ul style="list-style-type: none"> 100m dwnstm grade ctrl to 400m upstm grade ctrl: total recoverable aluminum, dissolved copper, adjusted gross alpha, PCBs 400m upstream of grade control to upper LANL bnd: total recoverable aluminum, dissolved copper, adjusted gross alpha, PCBs Los Alamos Canyon to 100m dwnstm of grade ctrl: total recoverable aluminum, adjusted gross alpha, PCBs
Fence	20.6.4.128	Not assessed.
Graduation	20.6.4.98	Pueblo Canyon to headwaters: PCBs, dissolved copper
Los Alamos	20.6.4.128	<ul style="list-style-type: none"> DP to Upper LANL boundary: PCBs, total recoverable cyanide, total recoverable selenium, adjusted gross alpha, total mercury NM-4 to DP Canyon: adjusted gross alpha, PCBs, total recoverable aluminum, total recoverable cyanide, radium 226+228, total recoverable selenium
Mortandad	20.6.4.128	within LANL: adjusted gross alpha, PCBs, dissolved copper
North Fork Ancho	20.6.4.128	Ancho Canyon to headwaters: adjusted gross alpha, PCBs
Pajarito	20.6.4.128, 20.6.4.98 (upper LANL bnd to headwaters)	<ul style="list-style-type: none"> 500m ds of and to Arroyo de la Delfe: dissolved copper, adjusted gross alpha, PCBs, dissolved silver Above Homestead Spring to LANL boundary: total recoverable aluminum, adjusted gross alpha Lower LANL bnd to Twomile Canyon: total recoverable aluminum, dissolved copper, total recoverable cyanide, adjusted gross alpha, PCBs Starmers Gulch to Homestead Spring: total recoverable aluminum, adjusted gross alpha Twomile Cyn to 500m ds of A. de La Delfe: dissolved copper, adjusted gross alpha, PCBs, dissolved silver Upper LANL bnd to headwaters: total recoverable aluminum, total recoverable cyanide, adjusted gross alpha, total mercury, PCBs
Potrillo	20.6.4.128	above Water Canyon: adjusted gross alpha
Pratt	20.6.4.128	Not assessed.
Pueblo	20.6.4.98	<ul style="list-style-type: none"> Acid Canyon to headwaters: PCBs, total recoverable aluminum, adjusted gross alpha, dissolved copper Los Alamos Canyon to Los Alamos WWTP: adjusted gross alpha, PCBs, total recoverable aluminum, total recoverable selenium Los Alamos WWTP to Acid Canyon: PCBs, adjusted gross alpha
Rendija	20.6.4.98	Guaje Canyon to headwaters: Not assessed
Sandia	20.6.4.126 (Sigma to Outfall 001), 20.6.4.128	<ul style="list-style-type: none"> Sigma Canyon to NPDES Outfall 001: total recoverable aluminum, PCBs, dissolved copper, temperature within LANL below Sigma: PCBs, total recoverable aluminum, adjusted gross alpha, total mercury, dissolved copper
South Fork Acid	20.6.4.98	Acid Canyon to headwaters: adjusted gross alpha, PCBs, dissolved copper

<u>Canyon Name</u>	<u>Waterbody Segment</u>	<u>2022-2024 Impairments (CWA §303d)</u>
Ten-Site	20.6.4.128	Mortandad to headwaters: adjusted gross alpha, PCBs.
Three Mile	20.6.4.128	Pajarito to headwaters: adjusted gross alpha
Two Mile	20.6.4.128	Pajarito to headwaters: adjusted gross alpha, PCBs, total recoverable aluminum, dissolved copper
Walnut	20.6.4.98	Pueblo Canyon to headwaters: PCBs, dissolved copper
Water	20.6.4.126 (Area-A Canyon to SR 501), 20.6.4.128, 20.6.4.98 (Upper LANL bnd to headwaters)	<ul style="list-style-type: none"> • Area-A Canyon to NM 501: fully supporting • Within LANL below Area-A Canyon: total recoverable aluminum, PCBs, adjusted gross alpha, total mercury • Within LANL above NM 501: not assessed • Upper LANL bnd to headwaters: total recoverable aluminum, total mercury

Or in addition, if there are POCs added for any Site during the SIP process that were not included for analyses in sampling performed under the Previous Permit, the Permittees shall prioritize analysis of the added POCs in the event a partial sample is collected.

In the event a partial sample is collected, the Permittees shall reactivate the sampler as soon as practicable to attempt to complete the full Site-specific POC suite listed in the SIP.

5. Additional Sampling Requirements

a. If soil disturbance within the Site-affected media occurs (e.g., during clearing, grading and excavating activities), storm water samples collected by the Permittees following these activities shall be analyzed for all POCs listed in the SIP for that SMA. Installation and routine maintenance of monitoring devices are not subject to the requirements of this Part.

b. if a Site for which monitoring has ceased later exhibits evidence of a discharge of contaminated runoff or conditions that could lead to a discharge of contaminated runoff (such as control measure failure, erosion problems, re-exposure of “no exposure” Sites), or if monitoring data (from the facility or any state or local agency collected and analyzed in accordance to 40 CFR 136, except for PCB, for which EPA Method 1668C or later revisions may also be used) show an exceedance of applicable TALs, the Permittees shall initiate appropriate actions to correct the problems as soon as practicable but no later than ninety (90) days of being made aware of such information and shall report the problem and the corrective actions taken to EPA, with a copy to the New Mexico Environment Department (NMED).”

c. In addition to any analyses required to be performed under the SIP, samples from all Sites shall be analyzed for Dissolved Organic Carbon (DOC) and Suspended Sediment Concentration (SSC) and the results included in the Annual Compliance Status Report.

6. Sufficiently Sensitive Method (SSM)

The Permittees shall use sufficiently sensitive EPA-approved analytical methods (under 40 CFR part 136 and 40 CFR chapter I, subchapters N and O) when quantifying the presence of pollutants in a discharge for analyses of pollutants or pollutant parameters under the Permit. The Permittees shall use EPA-approved methods which are sufficiently sensitive, as defined under 40 CFR 122.44(i)(1)(iv)(A), to the TALs, except for parameters for which a specific test method has been required under this Permit.

7. Data Averaging

The average refers to the geometric mean of applicable monitoring results at the SMA. If all analytical results are below analytical method detect level (MDL), a value of “zero” may be reported. If one or more data are above MDL, a value of ½ detect level shall be assigned to those below detect level data for calculation purpose. If the average value of a specific pollutant is below its MDL, a value of “zero” may be reported for the average.

If a new or an enhanced control measure is installed, the average shall be calculated based on analytical results from samples taken after installation of the new or enhanced control measure.

8. Inspections

The Permittees must conduct the following types of regular inspections. The Permittees may conduct a combined inspection for a Site, if appropriate.

a. Significant Event Inspections

The Permittees must inspect and re-evaluate all Sites after notice of a significant event, such as a fire or flood, which could significantly impact the control measures and/or environmental conditions in the affected area. Such inspection and reevaluation should be conducted, and any repairs or adjustments completed, before the next anticipated storm event or as early as practicable.

b. Post-Storm Rain Event Inspections

The Permittees must inspect control measures at any Site affected by a “storm rain event” defined below, within fifteen (15) days after such storm rain event. The occurrence of a “storm rain event” as defined below shall be determined based on data from the nearest meteorological tower to any particular Site. A “storm rain event” under this paragraph means a 0.50 inches or more intensive rain event within 30-minutes.

If several storms exceeding the above intensity threshold occur over a period not to exceed fifteen (15) days from the first event, a single inspection following these storms is sufficient for compliance with this requirement, provided that the inspection occurs no more than fifteen (15) days from the date of the first storm. If adverse weather conditions prevent a Site inspection within the required time period, the Permittees shall inspect the Site as soon as practicable. Adverse weather conditions shall be documented, and this information shall be maintained with the SDPPP. Adverse weather conditions include dangerous weather-related

events (e.g., flooding, wildfires, hail, or lightning) that make Site inspection dangerous for worker safety.

c. Long-Term Stewardship Inspections

When a Site is placed in the Long-Term Stewardship (LTS) Category under Part I.C.3. below, the Permittees shall inspect and evaluate the Site and its associated controls annually (a) for a 5-year period (a Permit cycle) and (b) after any 3-year, 24-hour storm event. The reporting of inspection results shall be included in the annual update to the SDPPP and shall meet all requirements set forth in Part I.B.8.d below. An assessment shall be conducted by the Permittee during the fifth year of each Permit cycle to determine if the storm water runoff or erosion potential at each Site is in a stable condition and if adjustments should be made to the control measure inspection frequency set forth in this Part. The results of the assessment and any requests for a change in future inspection frequency at an LTS Site or for termination of LTS status for a Site (i.e., deletion of the Site) shall be included with subsequent re-application submittals. Sites in LTS status must be tracked by Site, not by individual controls, and the inspection dates, maintenance dates, maintenance activities, and LTS listing date for each LTS Site must be included in the SIP.

d. Inspection Reports

All inspections must be documented in an Inspection Report, which shall include, at a minimum, the following items:

- (i) The personnel who conduct the inspection;
- (ii) Date(s) on which the inspection was performed;
- (iii) A written summary of major observations, including any observation of deficiency;
- (iv) A summary of evidence of potential contaminants (e.g. re-exposed materials, stained soil, etc.), failure of a control measure, or alteration of run-on/run-off management structure or runoff pathway, etc;
- (v) Actions that should be taken to correct noted deficiencies;
- (vi) Photo documentation of findings at the Site, if necessary; and
- (vii) Certification of findings, including observation of no deficiency, signed and dated in accordance with Part III.D.11.

Inspection Reports must be included as part of the Annual Compliance Status Report submitted in accordance with Part I.E.3, Annual Compliance Status Reports, and retained in accordance with Part II.2, Recordkeeping.

PART I.C. SITE EVALUATIONS

Site evaluations shall be performed as described in this section.

1. Target Action Levels (TALs)

Target Action Levels (TALs) are based on and equivalent to New Mexico State water quality criteria for the subject pollutants. The applicable TALs are not themselves effluent limitations but are benchmarks to

determine the effectiveness of control measures implemented to meet the non-numeric technology-based effluent limitations. TALs are listed in Appendix B to this Permit.

2. Site-Specific Demonstration (SSD)

The Permittees may use the Site History (Part I.C.2.c.) combined with either the run-on and runoff evaluation (Part I.C.2.a) or the Site-specific information (Part I.C.2.b.) to perform a site-specific demonstration (SSD) showing that a Site or Sites are not reasonably expected to be the source for one or more of the remaining POCs that have exceeded applicable TALs and/or composite BTVs. BTVs are listed in Appendix C to this Permit. For Sites where data was collected under the Previous Permit, or requests have been submitted to EPA (e.g., Alternative Compliance or Force Majeure) that are pending, this demonstration must be conducted within 1 year of the effective date of this Permit. For Sites with a completed SSD, the tier results of the confirmation monitoring and soil data comparisons shall be used to determine annual sampling requirements. The results shall be provided in the initial SIP pursuant to Part I.E.2 and annually thereafter.

a. Run-on and runoff evaluation

This approach may be used at Sites where run-on control cannot be reasonably or economically installed. This demonstration shall include the collection of storm water run-on data for all POCs that exceeded the TALs, from a sampler located above the Site. In addition, the Permittees shall collect additional runoff data below a Site or Sites. Paired samples shall be taken from the same storm event. Where insufficient volume from a storm is collected to analyze all parameters, paired samples from future storms may be used for the remaining parameters. The runoff sampler may or may not be the SMA sampler location, but the runoff sampler location should be representative of runoff from Site-affected media for the Site(s) being evaluated by the SSD. An example where a runoff sampler is not the SMA sampler is where two or more Sites exist within an SMA and the Permittees monitor runoff from a single Site in the SMA.

If the following condition is met, the Permittees will have demonstrated that the Site or Sites are not reasonably expected to be the sole source for one or more of the remaining POCs (e.g., other sources are contributing POCs found in sampling results at levels already exceeding TALs) and the Permittees will have also demonstrated that discharges from the Site or Sites do not cause the exceedance of TALs. Further confirmation sampling for those POCs are not required.

The use of formula (1) below is limited to situations when run-on is from undeveloped land and would contain natural background concentrations:

$$(1) V(\text{run-off}) - V(\text{run-on}) \leq 0; \text{ or}$$

$$(2) \frac{[V(\text{runoff}) * \text{total catchment area}] - [V(\text{run-on \& precipitation}) * \text{Non-site area}]}{(\text{Site area})} \leq \text{TAL}$$

Where, V = Geomean of sampling results

b. Site-specific information

If the Permittees collect a minimum of one confirmation sample that exceeds a TAL, the Permittees may use this data, along with other Site-specific information, to determine whether the Site or Sites are reasonably expected to be the source of the POC that exceeds

the applicable TAL(s). Sources of Site-specific information include, but are not limited to, Site History, validated surface soil data (i.e., collected in top 3 feet), BTVs, information on land use upstream of and within the SMA, and relevant scientific literature.

(i) Storm Water (SW): When Permittees use Site-specific information in the SSD, confirmation storm water monitoring results shall be compared to the TALs (Appendix B) and to the BTVs (Appendix C) using the composite BTV formula below. Permittees shall compare the confirmation sample results to the composite BTV.

$$90^{\text{th}} \text{ percentile composite BTV} = [(\% \text{ impervious SMA area} * 90\% \text{ percentile developed landscape BTV}) + (\% \text{ pervious SMA area} * 90\% \text{ percentile undeveloped landscape BTV})] / 100\%$$

where the % impervious SMA area is the % impervious, or developed, area of the SMA, and the % pervious SMA area is the % pervious, or undeveloped, area of the SMA. The % impervious and pervious SMA areas and the resulting composite BTV for each Site shall be listed in an appendix of the annual SIP. The Permittees shall provide the results of the screening process in the annual SIP based on the comparison of confirmation sample results with composite BTVs and TALs. The results of the comparison shall be sorted into the following tiers:

SW Tier 1: When the confirmation sample result for one or more POCs does not exceed the TAL, the Permittees can cease monitoring for that POC for the remainder of the Permit.

SW Tier 2: When the confirmation sample result for one or more POCs exceeds the TAL but is less than the 90th percentile composite BTV, the SMA shall be assigned to long-term stewardship (LTS) and meet the requirements of Part I.B.8. However, if the composite BTV and the confirmation sample result do not exceed the TAL, SW Tier 1 applies.

SW Tier 3: When the confirmation sample result for one or more POCs exceeds the TAL and 90th percentile composite BTV, the SMA shall enter into corrective action per Part I.D. However, if the composite BTV and the confirmation sample result do not exceed the TAL, SW Tier 1 applies.

(ii) Soil Data (SD): When Permittees use Site-specific information in the SSD, with validated surface soil data results (i.e., within 3 feet below ground surface) including data from Consent Order soil characterization efforts, the following comparison can be made: 95-95 upper tolerance limit (UTL) BTVs for inorganic POCs (LANL 1998, “Inorganic and Radionuclide Background Data for Soils, Canyon Sediments, and Bandelier Tuff at Los Alamos National Laboratory”), and the most recent NMED soil screening levels (SSLs) for organic POCs and inorganic POCs with no BTV (Permittees must use the most recent NMED soil screening levels. As of the issuance date of this permit, the most recent version of soil screening levels were in the NMED November 2021 “Risk Assessment Guidance for Site Investigations and Remediation; Volume 1 Soil Screening Guidance for Human Health Risk Assessments”). The results of the comparison shall be sorted into the following tiers:

SD Tier 1: When the soil sample result for one or more POCs does not exceed the 95-95 UTL BTV for inorganic POCs or 10% of the SSL for organic POCs and inorganic POCs with no BTV, the Permittees can cease monitoring for that POC and it is not considered as a Site-related POC. If SW Tier 1 conditions are also met, Permittees may request the Site be deleted from the permit.

SD Tier 2: When the soil sample result for one or more POCs exceed(s) the 95-95 UTL BTV for inorganic POCs or 10% of the SSL for organic POCs and inorganic POCs with no BTV, the POC shall remain or be added to storm water monitoring requirements for that SMA if it is considered as a Site-related POC.

Note: The 95-95 upper tolerance limit (UTL) is designed to contain, but not exceed, a large fraction (95%) of the possible background concentrations within a sampled population, thus providing a reasonable upper limit on what is likely to be observed in background with a 95% degree of confidence.

c. Site History

If the Permittees believe a POC is not Site-related and monitoring for that POC should not be required under the SIP, the Permittees may provide documentation to EPA to demonstrate that the POC was not potentially managed or released at the Site during historic industrial activities; or evidence to demonstrate that the Site is not exposed to storm water. Relevant documentation of Site-related knowledge shall be reported in the SIP.

3. Long-Term Stewardship (LTS) Category

The LTS Category includes Sites that do not meet the requirements for Site deletion under Part I.C.4 and RCRA deferred sites¹ with BMPs required, but do not currently require additional corrective action. The Permittees may submit a written request to EPA, with a copy to NMED, to place a Site or Sites in the LTS Category if it meets one or more of the following conditions:

- a. Storm water sample results from the Site or Sites are greater than TALs because of background contribution as specified in Part I.C.2(b)(i) SW Tier 2;
- b. Storm water sample results from the Site or Sites are greater than HH-OO based TALs, but below Wildlife Habitat TALs for discharges to non-perennial streams;
- c. Storm water sample results are greater than Adjusted Gross Alpha (AGA) ATAL before monitoring requirements of AGA was removed from the 2010 permit; or
- d. Post Storm Rain Event Inspections performed at the Site or Sites in accordance with the requirements of Part I.B.8 have shown no evidence of storm water discharges from the Site or Sites for the past five years.

¹ “Deferred’ or ‘Deferred Site’ means the SWMUs and AOCs for which full investigation and/or remediation is deferred until such time as the SWMU or AOC is taken out of service or otherwise becomes accessible (e.g., firing sites and active facilities). Deferred Sites include the SWMUs and AOCs where delayed investigation, due to active Facility operations, was proposed in NMED-approved investigation work plans and reports.”

Note: If EPA has not responded within 60-days of receipt of the LTS request, the request may be considered provisionally approved. Sites that are considered provisionally approved for LTS under this paragraph may be subsequently removed from the LTS Category if the Permittees' LTS request is disapproved by EPA.

A list of Sites under LTS shall be included in the annual SIP. All LTS Sites must be inspected in accordance with the requirements of Part I.B.8 above.

4. Deletion of Site

The Permittees may submit a written request to EPA to delete a Site from coverage under the Permit if the Permittees can demonstrate that the Site does not have "storm water discharges associated with industrial activity" under 40 CFR 122.26(b)(14). Under this Permit, "storm water discharges associated with industrial activity" refers to storm water discharges from areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. A request to delete a Site under this Part must demonstrate one of the following:

- a. No industrial activities as specified under 40 CFR 122.26(b)(14) ever took place at the Site;
- b. Although industrial activities historically took place at the Site, significant materials do not remain that are exposed to stormwater. A request to EPA to delete a Site under this Part shall include documentation to demonstrate that the historic activities that led to designation of the Site as a SWMU or AOC under the 2016 Consent Order did not result in significant materials remaining that were exposed to storm water as of the issuance date of the Previous Permit (e.g. Site-related POCs are a minimum of 3 feet below the ground surface, or below existing buildings). A request to delete a Site under this section must include a certification signed in accordance with Part III.D.11 of the Permit that the Site no longer has significant industrial materials remaining that are exposed to stormwater;
- c. The Site no longer has significant industrial materials remaining that are exposed to storm water after installation of permanent control measures. For a Site to be eligible for deletion under this Part, the Permittees must demonstrate that for all SMAs that contain the Site, two confirmation storm water samples were collected (unless fewer samples are required under Part I.B.1.a) and no POCs exceeded the applicable TALs.;
- d. The Permittees certified corrective action complete under Part I.D.1(b). at the Site by removing soil that contained a release of Site-related POCs that were exposed to storm water and demonstrating that no significant materials from previous industrial activity remain in the Site. A request to EPA to remove a Site meeting the conditions of this Part shall include the certification of correction action complete under Part I.D.1.b. and storm water confirmation sampling results, if applicable;
- e. Storm water discharges associated with industrial activity no longer occur at the Site when the SSD shows that the data screening for all POCs resulted in a SW Tier 1 and SD Tier 1 result per Part I.C.2(b); or
- f. If, for Long-Term Stewardship Sites, no evidence of discharge is apparent at a Site after a 25-year, 24-hour storm event or, if the Site is being monitored, the following conditions are met:
 - (i) Active samplers are in representative locations;

- (ii) No confirmation sample has been collected after a 25-year, 24-hour return period storm; and
- (iii) Inspection records validate full operability of sampler.

Only where the request for deletion is made under b, c or e above and eligibility is based on installation of a BMP that must be maintained to continue providing eligibility for deletion, the request must include a certification that the BMP(s) will be maintained as necessary to continue meeting eligibility for deletion. EPA may also consider changes to the current WQS that would have resulted in a more stringent TAL when deciding to grant requests based on TALs. The Permittees are free to also consider updated WQS in deciding whether to make the request. EPA may approve a Site deletion request as a minor modification to the Permit under 40 CFR 122.63(e) (2). If such a request is approved, EPA will notify the Permittees in writing and issue a revised page to the Permit. A copy of all requests for Site Deletion, including certifications of “no exposure” under 4.c., shall be provided to NMED at the time submitted to EPA for review and approval. A copy of certifications of “no exposure” under 4.c. shall also be provided to the operator of any Municipal Separate Storm Sewer System (MS4) receiving runoffs from the Site, if applicable.

PART I.D. CORRECTIVE ACTION

1. Determination of Corrective Action Measures

Once a TAL and/ or composite BTV (per Part I.C.2) has been exceeded for a Site-related POC, the Permittees shall determine the appropriate corrective action. At a minimum, as applicable this corrective action determination shall consider one or more of the following: volume of storm water currently retained and the potential for additional retention of storm water; potential and physical limitation for installation of Site-appropriate storm water controls (with consideration of technological availability); evaluation of the efficacy, limitations, and predicted water quality improvement performance of any proposed storm water controls (may include information from published literature or manufacturers specifications); or distribution of contaminants in soil and the predicted efficacy of any proposed soil removal on removal of POCs from storm water. The options for implementation of corrective action may include installation of enhanced control measures, elimination of exposure of POCs to stormwater, or retention of a 3-year, 24-hour storm event as described below.

a. Installation of Enhanced Control Measures

Enhanced (i.e., additional, expanded or better-tailored) control measures may be used to complete corrective action. Where feasible, these enhanced controls shall incorporate low-impact design and green infrastructure design features (e.g. plunge pools, compost-filled wattles, and bio-retention basins).

The enhanced control process may include more than one iteration of control measure installation followed by confirmation monitoring, pursuant to Parts I.B and I.C.2, after each control measure installation.

Permittees shall certify completion of installation of control measures under this subpart to EPA, with a copy to NMED, within 30 days of completion of all such measures at the Site. Such certification shall be signed in accordance with 40 CFR 122.22(b) and shall include a description and photographs of all completed measures and the results of the corrective action measures evaluation performed in Part I.D.1. Except as provided in Part I.C.4, the Permittees are required to continue to inspect the Site in accordance with Part I.B.8 and to

maintain all control measures in effective operating condition as required by Part I.A.

b. Elimination of Exposure of Site-Related POCs to Storm Water

To complete corrective action at a Site, or combined Sites within an individual SMA, the Permittees may pursue elimination of exposure of Site-related POCs to storm water. Elimination of exposure of Site-related POCs to storm water may be achieved in one of two ways:

(i) Constructing a cap or other engineered cover, the Permittees shall demonstrate that a cap or other engineered cover has been constructed to address contamination at a SWMU that has adequate soil data to identify the entire area of contamination. The Permittees shall be in compliance with this Permit once they have certified and demonstrated to EPA, through the submission of certified as-built drawings, that such measures have been properly installed to perform their function to eliminate exposure of Site-related POCs to storm water as plan. One confirmation sample is required if capped area is smaller than the SMA drainage area. Otherwise, no further confirmation sampling is required, unless required by Part I.B.5.

(ii) Soil removal. The Permittees shall demonstrate and certify to EPA, with a copy to NMED, that soil removal meets the requirements of this Part through collection and evaluation of soil sampling results. Following certification of completion of soil removal, the Permittees shall perform storm water confirmation sampling.

If the Permittees certify that 3 feet or more depth of soils are removed and replaced with clean soils and EPA determines new soil data has demonstrated that no significant amount of industrial materials remain on the Site, the Permittees will have demonstrated completion of corrective action. The Permittees may submit soil data for new fill soil, or soil data from upstream background soil to demonstrate no significant materials from past industrial activities would remain exposed to storm water. EPA may require soil testing for some radius outside the remediated area to ensure “no significant industrial materials remain” in the soil on the water pathway.

The Permittees shall certify elimination of exposure under this Part to EPA, with a copy to NMED, within 30-days of completion of all such measures at the Site. Such certification shall be signed in accordance with 40 CFR 122.22(b) and shall include a description and photographs of all completed measures and the results of the corrective action measures evaluation performed in Part I.D.1. Except as provided in Part. I.C.4, the Permittees are required to continue to inspect the Site in accordance with Part I.B.8 and to maintain all control measures in effective operating condition as required by Part I.A.

c. Retention of a 3-Year, 24-Hour Storm

The Permittees may achieve completion of corrective action under this Part through installation of control measures that retain a volume of storm water runoff from a Site, or combined Sites within an individual SMA, that is equivalent to a 3-year, 24-hour storm event based on the most representative rain gage historic records from the nearest meteorological tower or rain gage. The Permittees shall be in compliance with this Permit at that Site or SMA once they have certified and demonstrated to EPA, with a copy to NMED, through the submission of certified as-built drawings, that such measures have been properly installed to

perform their function to retain the appropriate design volume of storm water. No further confirmation sampling is required post-certification, unless required by Part I.B.5.

Identification of the rain gage applicable to each Site shall be maintained within the SDPPP. The Permittees shall provide, in the SDPPP, information (e.g., sediment removal, sediment depth, water level, estimated capacity remaining, evidence of discharges, or others) to demonstrate the retention facility maintains capacity to store runoff volume from a 3-year, 24-hour storm.

The Permittees may install run-on control measures to reduce run-on and sediment (i.e., low impact development, green infrastructure, sediment detention basin or berm, etc.), and such installations shall minimize discharges to the equivalent of a 3-year, 24-hour storm event.

In an event of discharge, the Permittees shall report such a discharge in the annual SDPPP and demonstrate that such a discharge is caused by a storm event that is greater than a 3-year, 24-hour storm event. The Permittees are required to continue to inspect the Site in accordance with Part I.B.8 (as applicable) and to maintain all control measures in effective operating condition as required by Part I.A. The Site shall be re-evaluated with the SIP process to determine if monitoring is required in the future.

2. Alternative Compliance

If the Permittees believe, based upon a technical evaluation of Site conditions and existing control measures, that they will be unable to certify corrective action complete under Part I.D.1.a through c. above (individually or collectively) at a Site due, for instance, to Site conditions that make it impracticable to install further control measures, or POCs that exceed TALs and/or composite BTVs (per Part I.C.2) are contributed by sources beyond the Permittees control, the Permittees may seek to place a Site into Alternative Compliance, whereby completion of corrective action shall be accomplished on a case-by-case basis, and as necessary, pursuant to an individually tailored control measure approved by EPA.

To request to place a Site or Sites into Alternative Compliance, the Permittees must file a written request with EPA after providing a written notice to the public and opportunity for public comment as described below. The Permittees request must include the following:

- a. A comprehensive description of all previous control measures installed at the Site or Sites:
- b. A list of additional on-the-ground actions implemented by the Permittees (including any watershed protection approach implemented pursuant to Part II.1. below, which have resulted in a reduction in the potential for Site-related POC discharges to reach downstream canyons:
- c. A detailed demonstration, including any underlying studies and technical information, of how the Permittees reached the conclusion that they are unable to certify completion of corrective action under Parts I.D.1.a. through c. (individually or collectively): and
- d. A list of economically achievable BMPs with Site-tailored workplan and schedules which may further reduce discharges or exposure of POCs to the environment, if applicable.

Prior to submission of request for Alternative Compliance to EPA, the Permittees shall make the request and all supporting information available to NMED and the public for review and comment for a period of at

least forty-five (45) days and shall develop and provide to the commenters a written response document addressing all relevant and significant concerns raised during the comment period. The Permittees' request under this Part, along with the complete record of public comment and the Permittees' response to comments, shall be submitted to EPA Region 6 for a final determination on the request. The Permittees' response to comments may include a revision to the Alternative Compliance request and/or the proposed individually tailored work plan.

The Permittees shall not be out of compliance with the applicable requirements for achieving completion of corrective action with respect to the Site or Sites covered by a request. The Permittees shall continue to conduct inspections and maintenance of existing control measures on those Sites.

If EPA, after considering all the information submitted by the Permittees, including all comments received on the request and the Permittees response to those comments, denies the request, EPA may require the Permittees to install Site-specific control measures to complete the corrective action, in writing.

If EPA approves the request, EPA may set Site-specific requirements for inspection, maintenance, and/or monitoring.

(Note: Alternative Compliance requests submitted under the previous permit conditions may be resubmitted with all supporting documents, if applicable under this permit, without reopening a new public notice.)

3. Schedules for Corrective Actions

If corrective action is required at the Site, pursuant to Part I.C, the Permittees shall take proper corrective actions and complete installation of additional control measures as soon as practicable, but not later than 24-months from the date when the Permittees have knowledge of TAL and/or composite BTV exceedance (per Part I.C.2). For Sites which installation of additional control measures has been started prior to the effective date of the final permit, the Permittees shall complete it as soon as practicable. If such control measures have not been started prior to the effective date of the permit, and more than 24-months will be required to complete corrective action at a particular Site, the permittee shall submit a compliance schedule to complete installation as soon as practicable but no later than the expiration date of this permit. Unless disapproved by EPA within 60-days, the permittees proposed schedule is provisionally approved.

The Permittees may seek EPA approval for an extension of a deadline for corrective action if the Permittees can demonstrate that a "force majeure" has resulted, or will result, in a delay in meeting the obligation to confirm completion of corrective action by the specified deadline. An event that constitutes "force majeure," includes, but is not limited to (a) Acts of God, natural disasters such as fire or flood, war, terrorism, insurrection, civil disturbance, or explosion; (b) a federal government shut down, such as the ones that occurred in 1996 and 2018; (c) unanticipated breakage or accident to machinery, equipment or lines of pipe; (d) restraint by court order; (e) inability to obtain the necessary authorizations, approvals, permits or licenses due to an action or inaction caused by another governmental authority; (f) unanticipated delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures; and (g) inability to secure the reasonable cooperation of any other property owner in addressing storm water run-on to a Site or Sites from such property.

To obtain an extension from EPA, the Permittees shall describe in detail (a) the cause or causes of the delay; (b) the expected duration of the delay, including any obligations that would be affected; (c) the actions taken or to be taken by the Permittees to minimize the delay; and (d) the timetable by which those actions are expected to be implemented. If EPA does not act within 60-days upon receipt of "force majeure" request, the request is deemed "granted." EPA may notify the Permittees whether an extension is reasonably justified and provide a new reasonable deadline that takes into account the actual delay resulting from the event,

anticipated seasonal construction conditions, and any other relevant factors. If EPA does not agree to the extension, it will notify the Permittees in writing and provide the basis for its conclusion.

4. Completion of Corrective Action Certification

The Permittees must certify to EPA with a copy to NMED, pursuant to 40 CFR 122.22(b), upon completion of corrective actions. The Permittees shall certify for:

- a. A Site or Sites are not reasonably expected to be the source for remaining POCs as demonstrated under Part I.C.2 Site Specific Demonstrations; or
- b. The installation of enhanced control measures under Part I.D.1(a) with confirmation monitoring analytical results that do not exceed the applicable TALs and/or composite BTVs (per Part I.C.2) as demonstrated under Part I.B; or
- c. The installation of control measures or the removal of soil that eliminate exposure of Site-related POCs to storm water under I.D.1.(b), with confirmation monitoring analytical results that do not exceed the applicable composite BTVs and/or TALs (per Part I.C.2) as demonstrated under Part I.C., if confirmation monitoring is required as demonstrated under Part I.B., if confirmation monitoring is required; or
- d. The installation of control measures that retains a volume of storm water runoff or minimize discharges from a Site or SMA that is equivalent to a 3-year, 24-hour storm event under Part I.D.1(c).

PART I.E. PLANS AND REPORTS

1. Site Discharge Pollution Prevention Plan (SDPPP)

The Permittees shall update the facility's SDPPP annually, submit it to EPA and copy NMED by May 1 of each calendar year of the Permit and post the SDPPP on the Permittees' Individual Permit public website within 30-days after the submittal. The reporting period is from January 1 to December 31. The annual update shall fully incorporate all changes made during the previous year and reflect any changes projected for the following year. The facility's SDPPP must remain compliant with relevant State, Tribal, and local regulations, if applicable.

a. Contents of SDPPP

The facility's SDPPP must describe all control measures installed to meet the requirements of this Permit. In addition, the facility's SDPPP must contain all the elements described below. The SDPPP must also address the inspection requirements set forth in Part I.B.8 of this permit.

- (1) **Site Discharge Pollution Prevention Team.** The Permittees must identify the staff members (by name or title) that comprise the facility's Site Discharge Pollution Prevention Team (Pollution Prevention Team). The Permittees' Pollution Prevention Team is responsible for assisting the facility manager in developing and revising the facility's SDPPP as well as maintaining control measures and taking corrective actions for deficiencies. Specific responsibilities of each staff individual on the Team must be identified and listed in the SDPPP. Each member of the Pollution Prevention Team must have ready access to either an electronic or paper copy of applicable portions of this Permit and the facility's SDPPP.

-
- (2) **Site Description.** The facility's SDPPP must include a description of historical activities at each Site, precipitation information, general location map, and Site maps.
- (3) **Receiving Waters and Wetlands.** The SDPPP must include the name(s) of all receiving waters that receive discharges from Sites covered by this permit. The SDPPP must also include the size and description of wetlands or other special aquatic Sites.
- (4) **Summary of Potential POC Sources.** The SDPPP must identify each Site at the facility where industrial materials or activities were previously exposed to storm water and from which allowable non-storm water discharges were released. The SDPPP must also identify the POCs associated with those activities.
- (5) **Description of Control Measures.** The Permittees must update the SDPPP as needed to document all structural control measures installed at a Site as well as the dates installation was completed. The SDPPP must include sufficient detail to identify and describe the Site-specific control measures.
- (6) **Schedules for Control Measure Installation.** The Permittees shall update the SDPPP as necessary to include schedules for additional control measure installation and implementation resulting from corrective action under Part I.D of this Permit.
- (7) **Monitoring and Inspection Procedures.** The Permittees must document in the SDPPP schedules and planned procedures for sample collection and Site inspection. For each sample to be collected, the SDPPP must identify:
- (a) Locations where samples are to be collected, including coordinates for sampling locations, and any determination that two or more Sites are substantially identical;
 - (b) Person(s) or positions of person(s) responsible for sample collection;
 - (c) Parameters to be sampled and frequency of sampling for each parameter;
 - (d) Procedures for gathering storm event data.

The Permittees must document in the SDPPP all tentative schedules and procedures for significant event and post-storm inspections as described in Parts I.B.8.a and I.B.8.b of this Permit.

- (8) **SMA Maps.** The Permittees must include a map with the following information in their SDPPP regarding each SMA:
- (a) Location of each Site within the SMA drainage area;
 - (b) Coordinates and locations of the SMA samplers (with updates as adjustments occur).
 - (c) Estimates of the size (in acres) of the SMA and of Site(s) within the SMA.
 - (d) Any adjustments/changes to sampler locations under Parts I.B.2.a and the associated documentation for the sampler move.
 - (e) Coordinates and identification of any run-on sampler locations.

- (9) **Annual Compliance Status Reports.** Annual Compliance Status Reports as specified in Part I.E.3 shall be integrated into the SDPPP.
- (10) **Annual SIP.** The annual SIP, as specified in Part I.E.2 shall be integrated into the SDPPP.
- (11) **Signature Requirements.** The SDPPP shall be signed, certified and dated in accordance with 40 CFR 122.22(b) prior to submittal of annual updates.

b. SDPPP Documentation

The Permittees are required to maintain inspection, monitoring, and certification documentation with the SDPPP that together keep the records complete and support ongoing SDPPP implementation activities. These records are maintained alongside the SDPPP document, thereby providing a consolidated record of documented storm water requirements and implementation procedures.

The Permittees must, at a minimum, keep the following records and documentation alongside the SDPPP:

- (1) Dates of training sessions, names of employees trained, and subject matter of training under Part II.;
- (2) Sampling reports including sampling dates, analytical results, outfall locations, name and qualifications of technician;
- (3) Annual SIP: monitoring location lists, monitoring requirements lists including storm water and sediment sample screening results, adjustments to annual monitoring plan, and re-initiating monitoring requirements where applicable;
- (4) Inspection reports and any other information required to be included in an Inspection Report under Part I.B.8.
- (5) An accounting and an explanation of the length of time it takes to modify control measures or implement additional control measures following the discovery of a deficiency or the need for modification;
- (6) Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, the date(s) that control measure(s) were returned to full function and the justification for any extended maintenance/repair schedules.

c. Required Modifications

The Permittees must keep documents and records with the SDPPP as necessary to reflect:

- (1) Construction or a change in design, operation, or maintenance at the facility having a significant impact on the discharge, or potential for discharge, of POCs from the facility;
- (2) Findings of deficiencies in control measures during inspection or based on analytical monitoring results;
- (3) Any change of monitoring requirement or compliance status;

- (4) Any change of SMA location in accordance with Part I.B.2.a; and
- (5) Summary of changes from the last year's SDPPP.

If any of the circumstances described above occur at any Site, the Permittees must address these changes or deficiencies to ensure compliance with this Permit's conditions and applicable monitoring requirements. All changes must be incorporated into the SDPPP and a summary of these changes must be provided in the SDPPP.

d. SDPPP Availability

The Permittees must retain a paper copy of the current SDPPP required by this Permit at the facility, and it must be immediately available to EPA, a State, Tribal or local agency approving storm water management plans, the Pollution Prevention Team members, and representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) at the time of an on-site inspection or upon request. A copy of the SDPPP shall also be made available on the Permittees' Individual Permit public website.

2. Sampling Implementation Plan (SIP)

The Permittees shall develop and submit to EPA for review and approval a SIP, and annually thereafter updates to the approved SIP, that includes the following information:

- a. **Monitoring location list** – For each SMA, if the sampler location changed or a new location was added from the previous year, report any updated latitude and longitude and indicate the reason for the change in the appropriate SIP section. The representative sampling location review conducted in 2016–2018 resulted in new sample locations for several SMAs constitutes an initial review that shall be provided in the first SIP update following the issuance of this Permit. Monitoring locations shall be reviewed annually to ensure representative samples will continue to be collected.

When a Site and the associated controls are designated as a LTS location, monitoring is no longer required. The Permittees shall update the list of these Sites annually in the SIP. The Permittees shall meet the inspection requirements per Part I.B.8 and must track the status of inspections and maintenance completed.

- b. **Monitoring requirements list** – For each SMA, the Permittees must annually complete an SSD screening if, new confirmation samples or soil data are received during the previous year as required by Part I.C.2.

If the SIP requires the addition of one or more POCs for monitoring and the Site has previously entered corrective action, the Permittees are required to complete all applicable requirements of Part I.B.1 and initiate confirmation monitoring for all added POCs.

If a new POC is added for monitoring, the Permittees shall collect two samples. If there is an associated water quality standard for that POC that is Site-related, the monitoring result shall be compared to that standard.”

The SIP shall be prepared and submitted to EPA as follows:

- a. The Permittees shall prepare a draft SIP and provide it to NMED for review no later than October 15, 2022. The Permittees shall allow NMED a period of at least 30-days to review the draft SIP and provide comment.

- b. Permittees shall provide a written response to any comments from NMED on the draft SIP within 30-days of receipt of the comments.
- c. The Permittees shall provide public notice of the opportunity for public review and comment on the draft SIP, including any comments received on the SIP from NMED and the Permittees response to those comments. The public comment period shall be for at least 30-days, with consideration of a longer timeframe as needed. The public can also review and comment on the SIP through the procedures established for Public Meetings under in Part II.3.(c).
- d. The Permittees shall modify the draft SIP as appropriate in response to public comments.
- e. Within 45-days after the close of the comment period, but no later than March 31, 2023, the Permittees shall submit the draft SIP (along with the Permittees' responses to any public comments received) to EPA for approval with a copy provided to NMED.
- f. EPA will review the proposed SIP, require revisions as necessary, and approve via a minor permit modification (40CFR 122.63(b) and/or (e)(2)) to incorporate the first annual SIP requirements applicable for a specified monitoring period. Unless disapproved, permittee may begin implementation of proposed SIP on a provisional basis 30-days after submittal to EPA and update as necessary once the final SIP is approved.

Annual Updates to the SIP:

- a. No later than January 15th of subsequent years, the Permittees shall send draft SIP updates for the prior year to NMED for 30-day review and comment.
- b. Permittee shall revise proposed SIP updates based on NMED's input and submit to EPA for review and approval no later than March 31st. If no comments received from NMED by the end of the specified review period, the Permittees may submit the SIP to EPA for approval without NMED input.
- c. EPA will review the proposed SIP, require revisions as necessary, and approve the annual SIP requirements resulting from any modifications to the initial SIP for a specified monitoring period via a minor permit modification. Unless disapproved, permittee may begin implementation of proposed SIP on a provisional basis 30-days after submittal to EPA and update as necessary once the final SIP is approved.

Note: Each annual SIP will cover the period from January 1st – December 31st, except the last year covering the expiration date of the permit which will not have an end date to accommodate any period of administratively continuance, should the permit have not been reissued prior to expiration date. Updates to the SIP may be discussed during the annual permittee public meetings required by Part II.3.c. If a CWA §303(d)/§305(b) Integrated List of Assessed Surface Waters listed impairment is identified as being a Site related pollutant, then Permittees shall add it to the SIP. Changes to monitoring locations or POCs shall be documented in the annual SIP update. EPA may require the Permittees to submit additional information to justify proposed changes or document Site knowledge regarding a Site in the SIP. If sampler moves are required by the SIP, samplers shall be moved to more representative locations at the initiation of the storm water sampling season or as soon as practicable to facilitate sample collection.

The results of the SIP updates must be presented in the annual update to the SDPPP as required by Part I.F.1. Additionally, the SIP updates must be published on the IP Public website per Part I.7(a).

3. Annual Compliance Status Reports (CSR)

The Permittees shall submit Annual Compliance Status Reporting (CSR) information. The reporting period is from January 1 to December 31. The reporting requirements shall be integrated into the SDPPP, due by May 1 of the following year, and shall include the following:

- (a) For each SMA (or Site), a summary of the Site-specific compliance status during the report period;
- (b) Monitoring information which shows the results available during the reporting period and that include the following information required in (i) through (iii) below;
 - (i) SMA and associated outfall and Site(s) numbers/identifications;
 - (ii) Monitoring results available during the reporting period;
 - (iii) Identification of POCs that exceed the applicable TAL or BTV;
- (c) Description of control measures installed during the reporting period, including the certification of completion date;
- (d) Description of corrective actions required under Part D of this Permit to be taken, or having been taken, including completion date or targeted completion date, and progress update;
- (e) Description of sampler maintenance and identification of all missed sample opportunities during storm rain events and the cause of missed opportunity (i.e., sampling equipment malfunctioning, repairs, construction activities) with an explanation of circumstances;
- (f) Highlights of any change of compliance status from the previous Annual Compliance Status Report;
- (g) Lists of requests, including any requests for change of monitoring location or Site deletion and any requests to place a Site or Sites into Part I.D.2, Alternative Compliance; and
- (h) A summary of inspections performed in accordance with Part I.B.

EPA may require the Permittees to submit additional information. This CSR information shall be signed, certified, and dated in accordance with 40 CFR 122.22(b). Only one signature is required to cover all CSR forms.

Part II. OTHER CONDITIONS**A. Watershed Protection Approach**

EPA encourages the Permittees to voluntarily install watershed-based control measures, such as sediment barriers, to mitigate sediment or storm water runoff reaching the main channels of the canyons and/or the Rio Grande. The Permittees should include information and monitoring data regarding the installation of any such watershed-based control measures in the SDPPP. EPA may consider a Watershed Protection Plan as Alternative Compliance for Sites upstream of a watershed control. For approved Water Protection Plan Alternative Compliance Sites, storm water results from samples collected downstream of the control may be used for alternative compliance sampling purposes and screened per the Site-Specific Demonstration (Part I.C.2).

Note: While a watershed approach may be appropriate, Permittees must institute control measures with the understanding that upstream waters, higher in the canyons, may have more stringent water quality standards which must still be protected.

B. Record Keeping

The Permittees shall retain records of all monitoring information and reports, Corrective action evaluations and certifications, Site inspections and reports, decision-making procedures and supporting documents and records, and annual SDPPP updates with supplemental information for at least three (3) years after the issuance of the next permit renewal.

C. Public Involvement

(1) **Individual Permit Public Website:** The Permittees shall maintain a public website where information on the Permit, including the SDPPP, Annual SIP, Annual Compliance Status Reports, Corrective action reports, transmittal correspondence including Alternative Compliance requests between Permittees and EPA, and other relevant data and documents, shall be made available. A copy (either paper or electronic) of these documents shall also be made available by the Permittees as soon as practicable to any member of the public who makes such a request in writing. Confidential Business Information (CBI) may not be withheld from regulatory agencies but may be withheld from the public. All portions of the SDPPP not identified as CBI, pursuant to 40 CFR Part 2, must be provided to the public upon request.

(2) **E-mail notification:** The Permittees shall provide the opportunity for members of the public to register for and receive e-mail notifications on compliance with the Permit on the public website. E-mail notifications shall provide notice of completion of installation of control measures, updates on Permit compliance, any requests for time extensions, spill information, and notification of any modification to the Permit, SIP, or SDPPP including changing SMA locations, removing, deleting, or adding Sites, and completion of corrective actions. Such notifications shall have a direct link to the specific document to which it relates. Notice shall also be provided for any request to complete correction action under Alternative Compliance, Part I.E.3 of this Permit.

(3) **Public Meetings:** The Permittees shall publish a public notice and send an e-mail notification to members of the public who have registered as provided in Part II.C.2 about public meetings that shall be held annually. The Permittees shall update the public on implementation of and compliance with the Permit and provide an opportunity for both written and oral public comment. The meetings may be combined with other public meetings, but the Permittees shall provide a discrete, separate time for comment and discussion of this Permit. The Permittees shall e-mail a draft agenda at least one (1) week before the

meeting, publish the draft agenda on the Permittees' Individual Permit public website, and consider suggestions from the public for changes or additions to the agenda. The Permittees shall publish the final agenda on the Permittees' Individual Permit public website no later than three (3) days before the meeting.

D. State Water Quality Standards

The Permittees must control discharges from all Sites (individually or collectively) as necessary to ensure such discharges will not cause or contribute to a violation of applicable water quality standards. EPA believes that compliance with the non-numeric technology-based effluent limitations and other terms and conditions of this Permit will control discharges as necessary to meet applicable water quality standards.

E. Permit 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, or new state water quality standards are established and/or remanded by the New Mexico Water Quality Control Commission. The Permit also may be reopened and modified if new information, e.g., EPA approved TMDLs, etc., 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. EPA may choose not to reopen the Permit if changes of monitoring requirements could be incorporated into SIP or SDPPP.