

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION**

**SUBCHAPTER 1. INTRODUCTION**

**252:690-1-1. Purpose and applicability**

This Chapter establishes guidance and requirements for DEQ jurisdictional areas for the implementation of Oklahoma's Water Quality Standards, found at OAC 785:45, pursuant to 27A O.S § 1-1-202(B). The DEQ's Water Quality Standards Implementation Plan is included as Appendix A. Included in Subchapter 3 of this Chapter are certain point source discharge implementation criteria formerly contained in OAC 785:46. In addition, the applicable implementation provisions of the following DEQ rules apply:

- (1) OAC 252:205, "Hazardous Waste Management;"
- (2) OAC 252:220, "Brownfields;"
- (3) OAC ~~252:300~~252:301, "Laboratory ~~Certification~~ Accreditation;"
- (4) OAC 252:410, "Radiation Management;"
- (5) ~~OAC 252:510~~, "Municipal Solid Waste Landfills;"
- ~~(6)~~ OAC ~~252:520~~, "Solid Waste Management 252:515, "Management of Solid Waste;"
- ~~(7)~~(6) OAC ~~252:605~~ 252:606, "Discharge Standards;"
- ~~(8)~~(7) OAC 252:611, "General Water Quality;"
- ~~(9)~~(8) OAC 252:616, "Industrial Wastewater Systems;"
- ~~(10)~~(9) OAC 252:619, "Operation and Maintenance of Non-Industrial Total Retention Lagoon Systems and Land Application;"
- (10) OAC 252:621, "Non-Industrial Flow-Through and Public Water Supply Impoundments and Including Land Application;"
- (11) OAC 252:626, "Public Water Supply Construction Standards;"
- (12) OAC 252:631, "Public Water Supply Operation;"
- (13) OAC 252:641, "Individual and Small Public On-Site Sewage ~~Disposal Treatment~~ Systems;"
- (14) ~~OAC 252:648~~, "Land Application of Biosolids;"
- ~~(15)~~ OAC 252:652, "Underground Injection Control;"
- ~~(16)~~(15) OAC 252:656, "Water Pollution Control Facility Construction;" and
- ~~(17)~~(16) OAC 252:710, "Waterworks and Wastewater Works Operator Certification."

**252:690-1-2. Definitions**

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Acute WET testing"** means WET testing which measures short-term lethality to a specific aquatic animal test species ~~over a 48-hour period as specified in OAC 252:690-3-29.~~

**"Arithmetic mean"** means the sum of the values of individual data points in a data set divided by the number of data points. This term is synonymous with arithmetic average.

**"Background concentration"** means the concentration of a substance in receiving water immediately upstream of, but not influenced by, a wastewater discharge.

**"CAFO"** means Concentrated Animal Feeding Operation.

**"Chronic WET testing"** means WET testing which measures long term lethal and sublethal effects to a specific aquatic animal test species over a 7 day period as specified in OAC 252:690-3-29.

**"Coefficient of variation (CV)"** means, when used in the context of effluent data, the measure of an effluent distribution's variation relative to its mean. When used in the context of WET test acceptability, CV means the % variation among test replicates in either the control or the critical dilution.

**"Conservative substance"** means a substance which persists in the environment, having characteristics which are resistant to ordinary biological or biochemical degradation.

**"Critical dilution"** means an effluent dilution, expressed as a percentage, representative of the dilution afforded a wastewater discharge according to the appropriate Q\*-dependent chronic mixing zone equation for chronic WET testing. The critical dilution for acute WET testing is 100%.

**"Defensible analytical data"** means data traceable to a laboratory certified for that pollutant by the DEQ under OAC ~~252:300~~ 252:301 or data accepted by EPA; data traceable to a municipal laboratory operated by a properly certified laboratory technician by OAC 252:710; or data generated by a state or federal agency laboratory with equivalent certification. Quality assurance procedures, including chain of custody records, must be adequate and documentable. Quality control data required in the analytical method must be available from the laboratory upon request.

**"DEQ"** means the Oklahoma Department of Environmental Quality.

**"Detectable concentration"** means a concentration greater than zero (0) using a ninety-nine percent (99%) probability basis.

**"Dilution series"** means a set of proportional effluent dilutions for acute or chronic WET testing based on a specified critical dilution, which is typically the next-to-highest dilution in the series.

**"Effluent-dominated receiving stream"** means a stream which receives a point source discharge greater than or equal to one-third (1/3) of its 7Q2 flow.

**"Engineer"** means professional engineer registered in the state of Oklahoma.

**"EPA"** means the United States Environmental Protection Agency.

**"Geometric mean"** means the antilog of the arithmetic average of the natural logarithms of the individual points in a data set.

**"Intermittent lethality toxicity"** means two or more lethal effect test failures of a routine acute or chronic WET test within any 18-month period.

**"LC<sub>50</sub> (lethal concentration)"** means the concentration of a toxicant in an external medium that is lethal to fifty percent of the test animals for a specified period of exposure.

**"Load Allocation or LA"** means the portion of a receiving water's TMDL that is attributed either to one of its existing or future nonpoint sources or to natural background sources.

**"Log transformation"** means the mathematical transformation of an observed data set which results in a data set consisting of the natural logarithms of the individual data points in the observed data set.

**"Log-normally distributed"** means a distribution of effluent data which is positively skewed.

**"Major discharger"** means an industrial facility which has a point rating greater than or equal to 80 according to the NPDES permit rating system for industrial discharges; a POTW with a design flow greater than or equal to 1 mgd; or any facility designated as such by EPA in

conjunction with the state permitting authority.

**"Mineral constituents"** means chlorides, sulfates and total dissolved solids collectively.

**"Measurable level"** means a detectable concentration for which the analytical signal to noise ratio is significantly high to report a reliable single number. The measurable level corresponds to the lowest point at which the analytical calibration curve is determined based on analyses for the pollutant of concern.

**"Municipal"** means a publicly owned treatment works or facilities which are privately owned that generate only domestic waste including mobile home parks, home owner's associations, etc.

**"Narrative water quality criterion"** means statements or other qualitative expressions of chemical, physical, or biological parameters that are assigned to protect a beneficial use.

**"Numerical water quality criterion"** means concentrations or other quantitative measures of chemical, physical, or biological parameters that are assigned to protect a beneficial use.

**"No Observed Effect Concentration-Lethal"** or **"NOEC<sub>L</sub>"** means the greatest tested effluent dilution in a WET test at and below which lethality to test organisms does not occur that is statistically different from the control (0% effluent) at the 95% confidence level.

**"No Observed Effect Concentration-Sublethal"** or **"NOEC<sub>S</sub>"** means the greatest tested effluent dilution in a WET test at and below which a sublethal effect to test organisms does not occur that is statistically different from the control (0% effluent) at the 95% confidence level.

**"Non-conservative substance"** means a substance which undergoes significant short-term degradation or change in the environment other than by dilution.

**"OAC"** means Oklahoma Administrative Code.

**"Once-through cooling water"** means cooling water that is not recirculated.

**"OWQS"** means the Oklahoma Water Quality Standards, contained at OAC 785:45.

**"Permit cycle"** means the life of a permit from the date of issuance to the date of expiration as specifically stated on a permit, unless the expiration of the permit is extended by operation of statute, rule or agreement of the permittee and the DEQ.

**"Period of Record"** means a continuous period for which a facility's effluent data is reviewed for the purposes of characterizing the effluent.

~~**"Persistent lethality"** means the repeated failure of an acute WET test or the repeated lethal effect of a chronic WET test. If the required WET testing frequency is monthly, repeated failure occurs upon the failure of two out of three consecutive monthly tests for the same test species. If the required WET testing frequency is other than monthly, repeated failure occurs upon the failure of the required test plus one of the two monthly retests for the same test species in the ensuing two-month period.~~

~~**"Persistent sublethality"** means two consecutive chronic sublethal effect test failures.~~

**"Persistent toxicity"** means the repeated failure of an acute or chronic WET test. If the required WET testing frequency is monthly, repeated failure occurs upon the failure of two of the three consecutive monthly tests for the same test species. If the required WET testing frequency is other than monthly, repeated failure occurs upon the failure of the required test plus one of the two monthly retests for the same test species in the ensuing two-month period.

**"Percent mortality"** means 100% minus percent survival in a WET test effluent dilution.

**"Positively skewed"** means a data distribution which is asymmetric about its arithmetic mean with a tail in the positive direction.

**"POTW"** means publically owned treatment works.

**"Reasonable potential"** means causes, or has a reasonable potential to cause or contribute

to an exceedance of a water quality criterion.

**"Robust Regression on Order Statistics (Robust ROS)"** means a statistical method that computes a regression line to estimate values for non-detect data and combines these estimates with detected observations to compute sample statistics.

**"RPF<sub>95</sub>"** means the reasonable potential factor for an effluent distribution, based on a 95% probability basis, for the purpose of determining whether an effluent limitation is required.

**"RPF<sub>95(M)</sub>"** means the reasonable potential factor for an effluent distribution, based on a 95% confidence interval and 95% probability basis, and accounting for the size of the effluent data set, for the purpose of determining whether further effluent monitoring is required.

**"Receiving water"** means the water of the State to which a wastewater is discharged.

**"Regulatory effluent flow"** means the effluent flow, which is water quality criterion-dependent, used in determining reasonable potential and wasteload allocations for a substance.

**"SMCRA"** means the Surface Mining Control and Reclamation Act of 1977.

**"Standard deviation (s<sub>x</sub>)"** means the standard deviation of an untransformed data set based on a sample of size N.

**"Standard deviation of log-transformed x (s<sub>ln(x)</sub>)"** means the standard deviation of a log-normally transformed data set based on a sample of size N.

**"T<sub>95</sub>"** means the 95<sup>th</sup> percentile of the effluent temperature distribution (in °C) of sustained two-hour daily maximum effluent temperatures where effluent temperature is recorded continuously and the distribution of daily maximum effluent temperatures where temperature is recorded at discrete intervals of two hours or longer, provided that recording intervals for temperature do not exceed six hours.

**"TDS"** means total dissolved solids.

**"TIE"** means toxicity identification evaluation.

**"TRE"** means toxicity reduction evaluation.

**"Trigger Background concentration"** means the background concentration necessary to trigger reasonable potential for a substance to exceed an applicable criterion given a specified mean effluent concentration.

**"Wasteload allocation" or "WLA"** means the portion of a receiving water's TMDL that is allocated to one of its existing or future point sources of pollution.

**"WET limit"** means a WET testing limitation in the form of a NOEC<sub>L</sub>, NOEC<sub>S</sub>, or LC<sub>50</sub>, the exceedance of which constitutes a permit violation.

**"WET testing"** means testing for whole effluent toxicity, using an effluent dilution series based on a critical dilution, to specific aquatic animal species according to EPA-approved testing methods.

#### **252:690-1-4. Incorporation of USEPA regulations by reference**

The following federal regulations at 40 CFR, as published on July 1, ~~2007~~ 2008, are incorporated by reference and applicable to this Chapter:

(1) **OAC 252:205 (Hazardous Waste Management).** 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: For the purposes of this section only, "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

- (A) **Part 260.** Hazardous Waste Management System: General, except 260.20 through 260.22.
- (B) **Part 261.** Identification and Listing of Hazardous Waste. In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".
- (C) 262.42(a)(2)(e).
- (D) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.
- (E) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except:
  - (i) 264.1(f)
  - (ii) 264.149
  - (iii) 264.150
  - (iv) 264.301(l)
  - (v) Part 264 Appendix VI
- (F) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except:
  - (i) 265.1(c)(4)
  - (ii) 265.149
  - (iii) 265.150
- (G) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
- (H) **Part 268.** Land Disposal Restrictions, except:
  - (i) 268.5
  - (ii) 268.6
  - (iii) 268.10
  - (iv) 268.11
  - (v) 268.12
  - (vi) 268.13
  - (vii) 268.42(b)
  - (viii) 268.44(a) through (g)
  - (ix) 268.44(m) through (p).
- (I) **Part 270.** Permit Programs, except 270.14(b)(18).
- (J) **Part 273.** Universal Waste Rule.
- (K) **Part 279.** Used Oil Management Standards. The only portion of 279.82 which is adopted by reference is "The use of used oil as a dust suppressant is prohibited."
- (2) **OAC 252:606 (Discharge Standards).**
  - (A) Part 116 (Hazardous Substances List)
  - (B) Part 117 (Reportable Quantities for Hazardous Substances)
  - (C) The following from PART 122 (NPDES PERMIT REGULATIONS):
    - (i) 122.2 - (definitions)
    - (ii) 122.24 - (concentrated aquatic animal production facilities)
    - (iii) 122.25 - (aquaculture projects)
    - (iv) 122.26 - (stormwater discharges)
    - (v) 122.27 - (silviculture)
    - (vi) 122.28(a) and (b) - (general permits)
    - (vii) 122.29 - (new sources and new dischargers)
    - (viii) 122.32 - As an operator of a small MS4, am I regulated under the NPDES

storm water program?

(ix) 122.34 – As an operator of a regulated small MS4, what will my NPDES MS4 storm water permit require?

(x) 122.35 – As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?

(xi) 122.41 - (permit conditions)

(xii) 122.42 - (conditions for specified categories of permits)

(xiii) 122.43 - (establishing permit conditions)

(xiv) 122.44 - (establishing permit limitations, standards and other conditions)

(xv) 122.45 - (calculating permit conditions)

(xvi) 122.46 - (permit duration)

(xvii) 122.47(a) - (schedules of compliance)

(xviii) 122.48 - (monitoring requirements)

(xix) 122.50 - (disposal into wells)

(xx) 122.61 - (permit transfer)

(xxi) 122.62 - (permit modification)

(xxii) 122.63 - (minor modifications of permits)

(xxiii) 122.64 - (permit termination)

(xxiv) Appendices A through J

(D) The following from PART 125 (criteria and standards for NPDES):

(i) Subpart A (technology-based treatment),

(ii) Subpart B (criteria for aquaculture projects),

(iii) Subpart D (fundamentally different factors),

(iv) Subpart H (alternative effluent limitations),

(v) Subpart I (new cooling water intakes),

(vi) Subpart J (existing cooling water intakes), and

(vii) Subpart L (disposal of sewage sludge under CWA 405)

(E) Part 129 (Toxic Pollutant Effluent Standards)

(F) Part 136 (testing and laboratory)

(G) Sections 401-471 (Effluent Guidelines 7 and Standards)

(H) Section 110.6 (notice of oil discharge)

(I) Part 302 (CERCLA exemption from NPDES permits)

(J) The following Sections from Part 503, Subpart A (General Provisions):

(i) 503.1 (Purpose and applicability)

(ii) 503.2 (Compliance period)

(iii) 503.3 (Permits and direct enforceability)

(iv) 503.4 (Relationship to other regulations)

(v) 503.5 (Additional or more stringent requirements)

(vi) 503.6(a)-(e),(g)-(j) (Exclusions)

(vii) 503.7 (Requirement for a person who prepares biosolids)

(viii) 503.8 (Sampling and analysis)

(ix) 503.9 (General definitions)

(K) The following Sections from Part 503, Subpart B (Land Application):

(i) 503.10(a),(b)(1)&(2),(e),(f),(g) (Applicability)

(ii) 503.11 (Special definitions)

(iii) 503.12 (General requirements)

(iv) 503.13 (Pollutant limits)

- (v) 503.14 (Management practices)
  - (vi) 503.15 (Operational standards - pathogens and vector attraction reduction)
  - (vii) 503.16(a) (Frequency of monitoring)
  - (viii) 503.17(a) (Recordkeeping)
  - (ix) 503.18 (Reporting)
- (L) The following Sections from Part 503, Subpart D (Pathogens and Vector Attraction Reduction):
- (i) 503.30 (Scope)
  - (ii) 503.31 (Special definitions)
  - (iii) 503.32(a), (b) (Pathogens)
  - (iv) 503.33(a), (b)(1)-(11) (Vector attraction reduction)
- (M) The following Sections from Part 503 Subpart E (Incineration)
- (i) 503.40 (Applicability)
  - (ii) 503.41 (Special definitions)
  - (iii) 503.42 (General requirements)
  - (iv) 503.43 (Pollutant (Metal) limits)
  - (v) 503.44 (Operational standard - total hydrocarbons)
  - (vi) 503.45 (Management practices)
  - (vii) 503.46 (Frequency of monitoring)
  - (viii) 503.47 (Recordkeeping)
  - (ix) 503.48 (Reporting)
- (N) The following Appendices from Part 503:
- (i) Appendix A (Procedure to determine the annual whole sludge application rate for a sludge)
  - (ii) Appendix B (Pathogen treatment processes)
- (O) Provisions of 40 CFR relating to CAFOs are excluded because they are beyond the jurisdiction of this Chapter.
- (3) **OAC 252:611 (General Water Quality)** Part 130 (Water Quality Planning and Management)
- (4) **OAC 252:652 (Underground Injection Control)**. The following apply in their entirety as they apply to the underground injection control program:
- (A) Part 144 (Underground Injection Control Program)
  - (B) Part 145 (State UIC Program Requirements)
  - (C) Part 146 (Underground Injection Control Program: Criteria and Standards)
  - (D) Part 147 (State Underground Injection Control Programs)
  - (E) Part 148 (Hazardous Waste Injection Restrictions)
- (5) In all cases where these rules conflict with or are less stringent than federal regulations, the federal regulations apply.

### SUBCHAPTER 3. POINT SOURCE DISCHARGES

#### **252:690-3-19. TREs, TIEs and WET limits**

- (a) **TRE and TIE.** A TRE is required where persistent ~~lethality~~ toxicity is demonstrated. The DEQ may require a TRE or TIE where ~~persistent sublethality or~~ intermittent lethality is demonstrated.
- (b) **WET limits.** The DEQ will incorporate a WET limit into a permit for the species affected by whole effluent toxicity upon the completion of a TRE, unless the DEQ determines that

chemical-specific effluent limits or toxicity-specific management practices in accordance with OAC 252:690-3-27 are sufficient to comply with the narrative toxicity criterion and protect the designated use. The DEQ may also incorporate a WET limit or chemical-specific effluent limits into a permit where reasonable potential is established by the presence in a discharge of a known toxicant in toxic amounts. The effective date of a WET limits-limit or a chemical-specific limits limit may be deferred up to three years from the date of completion of the TRE or the effective date of a permit, as applicable. The effective date of toxicity-specific management practices may be deferred up to one year from the date of completion of the TRE or the effective date of a permit, as applicable.

#### **252:690-3-27. Intermittent-lethality or persistent sublethality toxicity**

Where the permittee has demonstrated intermittent lethality-toxicity in either acute or chronic WET testing, the DEQ will require an increase in the frequency of WET testing and may require the permittee to perform a TRE/TIE for the affected species. A WET limit, chemical-specific numerical limit, or toxicity-specific management practices practice may be required at the completion of a TRE/TIE if the DEQ determines it is warranted. ~~Where the permittee has demonstrated persistent sublethality in chronic WET testing, the DEQ will require an increase in the frequency of WET testing and may require the permittee to perform a TRE/TIE for the affected species. Permit provisions for toxicity-specific management practices may be established to control persistent sublethality.~~

#### **252:690-3-31. WET test requirements**

WET testing is required for all major dischargers and those minor dischargers identified by DEQ as posing a significant unaddressed toxic risk.  $Q^*$  is calculated as described in Appendix D. ~~The following WET testing requirements apply:~~

(1) The following requirements apply to all WET testing:

(A) Acute testing only. Acute testing only is required for all discharges to lakes and where  $Q^* < 0.054$  in streams.

~~(2)~~ (B) Chronic testing only. Chronic testing only is required where  $Q^* > 0.3333$ .

~~(3)~~ (C) Acute and chronic testing, except for *Daphnia Magna*. Both acute and chronic testing are required where  $0.054 \leq Q^* \leq 0.3333$ .

~~(4)~~ (2) Acute and/or chronic testing using *D. Daphnia magna*. Acute and/or chronic testing using *Daphnia magna* may be considered by the DEQ on a case-by-case basis where the TDS level in an effluent is high and the background TDS level of the receiving stream causes toxicity to *Ceriodaphnia dubia* or *Pimephales promelas* species in a control dilution (0% effluent) may substitute for acute and/or chronic testing for *Daphnia pulex* or *Ceriodaphnia dubia* in the following circumstances:

(A) acute testing using *Daphnia magna* for streams where the instream concentration of TDS is less than or equal to 1000 mg/l after mixing using the 7Q2, may be considered by the DEQ on a case-by-case basis where the TDS level in an effluent has been demonstrated to cause WET test failures to *Daphnia pulex*.

(B) acute testing using *Daphnia magna* for streams where the instream concentration of TDS is greater than 1000 mg/l after mixing using the 7Q2, may be considered on a case-by-case basis where the TDS level in an effluent has been demonstrated to cause WET test failures to *Daphnia pulex* and the background TDS level of the receiving stream causes toxicity to *Daphnia pulex* in a control dilution (0% effluent).

(C) chronic testing using *Daphnia magna* may be considered by the DEQ on a case-by-case basis where the TDS level in the effluent has demonstrated WET test failures to *Ceriodaphnia dubia*, where the background TDS levels of the receiving stream causes toxicity to *Ceriodaphnia dubia*, in a control dilution (0% effluent), and where the permittee can demonstrate that the ionic ratios in the effluent are similar to the ionic ratios in the receiving stream.

~~(5)~~(3) **Mussels.** Acute and/or chronic testing of mussels shall be required if the DEQ determines that the discharge may affect an indigenous population(s) of mussels.

#### **252:690-3-34. Test duration for WET tests**

~~For acute tests the test duration is 48 hours and for chronic tests the test duration is until 60% of the surviving females in the toxicity test control dilution (0% effluent) produce three broods or at the end of eight days, whichever comes first. The appropriate WET test duration is specified in the specific test method pursuant to OAC 252:690-3-29.~~

#### **252:690-3-37. ~~Dilution~~ WET test dilution water for discharges to perennial streams and lakes**

For discharges to perennial streams or lakes, permittees must use receiving water collected as close to the point of discharge as possible but unaffected by the discharge. Receiving water must be collected outside the regulatory mixing zone for discharges to lakes. If the receiving water control fails to fulfill the test acceptability criteria in OAC 252:690-3-38, the permittee must substitute synthetic dilution water for the receiving water in all subsequent tests, provided:

- (1) a synthetic dilution water control which fulfills the test acceptability requirements in OAC 252:690-3-38 was run concurrently with the receiving water control.
- (2) the test indicating receiving water toxicity was carried out to completion.
- (3) the synthetic dilution water had a pH, hardness and alkalinity similar to that of the receiving water, provided the magnitude of these three parameters did not cause toxicity in the synthetic dilution water.
- (4) the receiving water test must be conducted at the start of each permitting cycle.

#### **252:690-3-39. Endpoint and test failure criteria for acute tests**

The endpoint for routine acute WET testing and retesting is the LC<sub>50</sub>. ~~Test Acute test failure is greater than or equal to 50% mortality to a test species in any of the effluent dilutions after 48 hours, as specified in OAC 252:690-3-29. Statistical analysis must be consistent with the methods described in the documents referenced in OAC 252:690-3-29(a) and (b). Where a WET limit is established, it is expressed as an LC<sub>50</sub> effluent concentration and must be greater than 100% (>100%).~~

#### **252:690-3-40. Endpoint and test failure criteria for chronic tests**

The following applies to all chronic tests:

- ~~(1) **Lethal effect.** The endpoint for lethality for routine chronic WET testing and retesting is the NOEC<sub>L</sub>. Chronic lethal effect test failure is a statistically significant difference at the 95% confidence level between survival of the test organisms in an effluent dilution at or below the CCD after 7 days and the control. Statistical analysis must be consistent with the methods described in the documents referenced in OAC 252:690-3-29(c) and (d). Where a WET limit is established, it is expressed as an NOEC<sub>L</sub> and must be greater than or equal to the CCD.~~

~~(2) **Sublethal effect.**—~~ The endpoint for sublethality for routine chronic WET testing and retesting is the NOEC<sub>s</sub>. ~~Chronic sublethal effect test failure is a statistically significant difference at the 95% confidence level between reproduction in the *C. dubia* test or larval growth in the Fathead minnow test in an effluent dilution at or below the CCD after 7 days and the control.~~—Statistical analysis must be consistent with the methods described in the documents referenced in OAC 252:690-3-29(e) and (d). For chronic test failure, see OAC 785:45.

#### **252:690-3-42. WET testing frequency reductions after WET testing trial period**

Permittees may request reduction of the WET testing frequency for the remaining term of the permit depending on the results of WET testing during the WET testing trial period. Any reduction will be considered on a test species-specific basis. To qualify for a WET testing frequency reduction, the permittee must certify that tests submitted in fulfillment of its WET testing requirements during the WET testing trial period meet all test acceptability criteria set forth in OAC 252:690-3-38 and EPA WET test method documents. In addition the following apply:

(1) **WET testing established in permit.** Reductions in WET testing frequency are not allowed during the first five years of the applicability of a WET limit testing. The DEQ may consider a reduced testing frequency when the permit is renewed, based on the WET testing results during the term of the then previous permit.

(2) **No test failure for a species during WET testing trial period.** The DEQ may reduce the testing frequency for a species to not less than once per six months. If the monitoring frequency reduction is denied, the permittee must continue WET testing at a frequency of once per quarter for the affected species for the remaining life of the permit.

(A) To be eligible, the permittee must:

(i) demonstrate no lethal or sublethal test failures for ~~either~~ the applicable test species during the WET testing trial period; and

(ii) certify in writing to the DEQ that it has fulfilled the test acceptability requirements set forth in OAC 252:690-3-38;

(B) The DEQ will either approve or deny the certification in writing within 90 days of receipt. The DEQ may deny the certification based on facility specific criteria if it finds that any of the permittee's WET test reports during the period for which certification is submitted:

(i) are substantively incomplete;

(ii) are in error regarding test acceptability criteria or statistical interpretation of results; or

(iii) were not received by the DEQ by the due date prescribed in the permit.

(3) **Test failure for a species demonstrated during the WET testing trial period.**

(A) If a lethal test failure is demonstrated at any time during the WET testing trial period, the permittee must continue testing at a frequency of once per quarter for the affected species for the remaining life of the permit upon completion of the WET testing trial period.

(B) If a sublethal test failure is demonstrated at any time during the WET testing trial period, the permittee must continue testing at a frequency of once per quarter for the affected species until no sublethal effects are demonstrated for four consecutive quarters.

After demonstrating no sublethal effects for four quarters, the DEQ may reduce the testing frequency for the affected species to once per six months, provided the

requirements of OAC 252:690-3-42 (B)(2) are met.

(4) WET limits established in permit. Reductions in WET limit testing frequency are not allowed.

**252:690-3-75. Wasteload allocations for implementation of human health and raw water criteria for toxic substances to protect the Public and Private Water Supply beneficial use**

If either  $C_{d(\text{FFW})}$  or  $C_{d(\text{RAW})}$  exceeds its associated criterion, a water quality-based permit limit is required for that substance. Background levels used in calculating  $WLA_{\text{FFW}}$  and  $WLA_{\text{RAW}}$  are described in OAC 252:690-3-10 through 3-13 and 3-15. If a pollutant's background level exceeds either  ~~$WLA_{\text{FFW}}$  or  $WLA_{\text{RAW}}$ ,  $C_{\text{FFW}}$  or  $C_{\text{RAW}}$ .~~ the affected WLA is set equal to that criterion. Equations G-2 and G-3 are used to calculate  $WLA_{\text{FFW}}$  and  $WLA_{\text{RAW}}$ , respectively. For discharges to a stream located less than five stream miles upstream of a public water supply intake and for discharges to a lake located within one mile of a public water supply intake,  $WLA_{\text{FFW}}$  is set equal to  $C_{\text{FFW}}$  for any pollutant detected in the discharge.

**252:690-3-93. Monitoring for a nutrient limited watershed**

A permittee shall monitor monthly for total nitrogen and/or total phosphorus if the discharge is to a nutrient limited watershed as designated in OAC 785:45.