PART II - OTHER CONDITIONS

A. MINIMUM QUANTIFICATION LEVEL (MQL)

EPA-approved test procedures (methods) for the analysis and quantification of pollutants or pollutant parameters, including for the purposes of compliance monitoring/DMR reporting, permit renewal applications, or any other reporting that may be required as a condition of this permit, shall be sufficiently sensitive. A method is "sufficiently sensitive" when (1) the method minimum level (ML) of quantification is at or below the level of the applicable effluent limit for the measured pollutant or pollutant parameter; or (2) if there is no EPA-approved analytical method with a published ML at or below the effluent limit (see table below), then the method has the lowest published ML (is the most sensitive) of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapters N or O, for the measured pollutant or pollutant parameter; or (3) the method is specified in this permit or has been otherwise approved in writing by the permitting authority (EPA Region 6) for the measured pollutant or pollutant parameter. The Permittee has the option of developing and submitting a report to justify the use of matrix or sample-specific MLs rather than the published levels. Upon written approval by EPA Region 6 the matrix or sample-specific MLs may be utilized by the Permittee for all future Discharge Monitoring Report (DMR) reporting requirements.

Current EPA Region 6 minimum quantification levels (MQLs) for reporting and compliance are provided in Appendix A of Part II of this permit. The following pollutants may not have EPA approved methods with a published ML at or below the effluent limit, if specified:

POLLUTANT	**CAS Number**	**STORET Code**
Total Residual Chlorine	7782-50-5	50060
Cadmium	7440-43-9	01027
Silver	7440-22-4	01077
Thallium	7440-28-0	01059
Cyanide	57-12-5	78248
Dioxin (2,3,7,8-TCDD)	1764-01-6	34675
4, 6-Dinitro-0-Cresol	534-52-1	34657
Pentachlorophenol	87-86-5	39032
Benzidine	92-87-5	39120
Chrysene	218-01-9	34320
Hexachlorobenzene	118-74-1	39700
N-Nitrosodimethylamine	62-75-9	34438
Aldrin	309-00-2	39330
Chlordane	57-74-9	39350
Dieldrin	60-57-1	39380
Heptachlor	76-44-8	39410
Heptachlor epoxide	1024-57-3	39420
Toxaphene	8001-35-2	39400

Unless otherwise indicated in this permit, if the EPA Region 6 MQL for a pollutant or pollutant parameter is sufficiently sensitive (as defined above) and the analytical test result is less than the MQL, then a value of zero (0) may be used for reporting purposes on DMRs. Furthermore, if the EPA Region 6 MQL for a pollutant or parameter is not sufficiently sensitive, but the analytical test result is less than the published ML from a sufficiently sensitive method, then a value of zero (0) may be used for reporting purposes on DMRs."

Similar to the MQL, ML is defined as "The term ''minimum level'' refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor." The factor and the MDL determined by a lab should be documented properly with QA/QC.

B. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.7.b.(3) of this permit, violations of daily maximum limitations for the following pollutants shall be reported to EPA at the following e-mail address: R6_NPDES_Reporting@epa.gov and orally to the New Mexico Environment Department at (505) 827-0187, within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

Aluminum and Copper

C. PERMIT MODIFICATION AND REOPENER

In accordance with 40 CFR Part 122.44(d), 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.

In accordance with 40 CFR Part 122.62(s)(2), the permit may be reopened and modified if new information is received that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of permit issuance. Permit modifications shall reflect the results of any of these actions and shall follow regulations listed at 40 CFR Part 124.5.

D. SMCRA BOND RELEASE

When the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work has been satisfactorily completed on a watershed or a specific part of a disturbed area, the permittee may request to terminate the corresponding NPDES discharge points to that specific drainage area. The permittee must also demonstrate that the Phase III bond for that particular drainage area has been released before permit coverage can be terminated.

E. SEDIMENT CONTROL PLAN

(1) This subpart applies to drainage at western alkaline coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded areas where the discharge, before any treatment, meets all the following requirements:

(a) pH is equal to or greater than 6.0;
(b) Dissolved iron concentration is less than 10 mg/L; and
(c) Net alkalinity is greater than zero.

(i) The term *brushing and grubbing area* means the area where woody plant materials that would interfere with soil salvage operations have been removed or incorporated into the soil that is being salvaged.
(ii) The term *regraded area* means the surface area of a coal mine that has been returned to required contour.
(iii) The term *sediment* means undissolved organic and inorganic material transported or deposited by water.
(vi) The term *sediment yield* means the sum of the soil losses from a surface minus deposition in macro-topographic depressions, at the toe of the hillslope, along field boundaries, or in terraces and channels sculpted into the hillslope.
(v) The term *topsoil stockpiling area* means the area outside the mined-out area where topsoil is temporarily stored for use in reclamation, including containment berms.
(vi) The term *western coal mining operation* means a surface or underground coal mining operation located in the interior western United States, west of the 100th meridian west longitude, in an arid or semiarid environment with an average annual precipitation of 26.0 inches or less.

(2) (a) Within three (3) months from the effective date of the permit, the operator must have an updated site specific Sediment Control Plan (Plan) that is designed to prevent an increase in the average annual sediment yield from pre-mined, undisturbed conditions. The updated Sediment Control Plan must be submitted to the permitting authority for approval and be incorporated into the permit as an effluent limitation. The Sediment Control Plan must identify best management practices (BMPs) and also must describe design specifications, construction specifications, maintenance schedules, criteria for inspection, as well as expected performance and longevity of the best management practices.

(b) If the Plan is approved by the Surface Mining Control and Reclamation Act (SMCRA) agency, the Plan is considered to meet EPA’s approval requirement, unless EPA disproves the Plan within 90 days upon the reception of the Plan.

(3) Using watershed models, the operator must demonstrate that implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from premined, undisturbed conditions. The operator must use the same watershed model that was, or will be, used to acquire the SMCRA permit.

(4) The operator must submit an annual Sediment Control Report every 12 months from the approval of the Sediment Control Plan. This report shall demonstrate that the facility has met requirements set forth in above sub-sections (2) and (3).

(5) The permittee shall also send a copy of the approved Plan and annual reports to the State of New Mexico Environment Department.

F. WHOLE EFFLUENT TOXICITY TESTING (7-DAY CHRONIC NOEC FRESHWATER)

It is unlawful and a violation of this permit for a permittee or his designated agent, to manipulate test samples in any manner, to delay sample shipment, or to terminate or to cause to terminate a toxicity test. Once initiated, all toxicity tests must be completed unless specific authority has been granted by EPA Region 6 or the State NPDES permitting authority.

1. SCOPE AND METHODOLOGY

a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S): 006, 007 and 008

REPORTED ON DMR AS FINAL OUTFALL: 006, 007 and 008

CRITICAL DILUTION (%): 100%

EFFLUENT DILUTION SERIES (%): 32%, 42%, 56%, 75% and 100%

COMPOSITE SAMPLE TYPE: Defined at PART I

TEST SPECIES/METHODS: 40 CFR Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

b. The NOEC (No Observed Lethal Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.

c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

2. PERSISTENT LETHAL and/or SUB-LETHAL EFFECTS

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal and/or sub-lethal effects at or below the critical dilution. The purpose of additional tests (also referred to as ‘retests’ or confirmation tests) is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation.

Such testing cannot confirm or disprove a previous test result.

If any valid test demonstrates significant lethal or sub-lethal effects to a test species at or below the critical dilution, the frequency of testing for that species is automatically increased to once per quarter for the life of the permit.

a. Part I Testing Frequency Other Than Monthly

i. The permittee shall conduct a total of three (3) additional tests for any species that demonstrates significant toxic effects at or below the critical dilution. The additional tests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the additional tests in lieu of one routine toxicity test. A full report shall be prepared for each test required by this section in accordance with procedures outlined in Item 4 of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.

ii. IF LETHAL EFFECTS HAVE BEEN DEMONSTRATED If any of the additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section. The permittee shall notify EPA in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may be also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.

iii. IF ONLY SUB-LETHAL EFFECTS HAVE BEEN DEMONSTRATED If any two of the three additional tests demonstrates significant sub-lethal effects, the permittee shall initiate the Sub-Lethal Toxicity Reduction Evaluation (TRE_{SL}) requirements as specified in Item 5 of this section. The permittee shall notify EPA in writing within 5 days of the failure of any retest, and the Sub-Lethal Effects TRE initiation date will be the test completion date of the first failed retest. A TRE may be also be required for failure to perform the required retests.

iv. The provisions of Item 2.a.i. are suspended upon submittal of the TRE Action Plan.

b. Part I Testing Frequency of Monthly

The permittee shall initiate the Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section when any two of three consecutive monthly toxicity tests exhibit significant lethal effects at or below the critical dilution. A TRE may also be required due to a demonstration of intermittent lethal and/or sub-lethal effects at or below the critical dilution, or for failure to perform the required retests.

3. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

i. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.

ii. The mean number of *Ceriodaphnia dubia* neonates produced per surviving female in the control

(0% effluent) must be 15 or more.

iii. 60% of the surviving control females must produce three broods. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.

iv. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test.

v. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or nonlethal effects are exhibited for: the young of surviving females in the *Ceriodaphnia dubia* reproduction test; the growth and survival endpoints of the Fathead minnow test.

vi. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for *Ceriodaphnia dubia* reproduction;

vii. A PMSD range of 12 - 30 for Fathead minnow growth.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

b. Statistical Interpretation

i. For the *Ceriodaphnia dubia* survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA/821/R-02-013 or the most recent update thereof.

ii. For the *Ceriodaphnia dubia* reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA/821/R-02-013 or the most recent update thereof.

iii. If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

i. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;

(A) toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and

(B) toxicity tests conducted on effluent discharges where no receiving water is available due to zero

flow conditions.

ii. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 3.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

(A) a synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;

(B) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);

(C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 4 below; and

(D) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

i. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item 1.a above.

ii. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.

iii. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage.

iv. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 4 of this section.

v. <u>MULTIPLE OUTFALLS:</u> If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in item 1.a. above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.

4. REPORTING

The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA/821/R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.3 of this permit. The permittee shall submit full reports upon the specific request of the Agency. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.

A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. One set of biomonitoring data for each species is to be recorded on the DMR for each reporting period. Additional results may be reported under "retests".
The permittee shall submit the results of each valid toxicity test on the subsequent monthly DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.

Reporting Requirement	**Parameter STORET CODE**	
	Ceriodaphnia dubia	*Pimephales promelas*
Enter a "1" if the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, otherwise enter a "0".	TLP3B	TLP6C
Report the NOEC value for survival	TOP3B	TOP6C
Report the LOEC value for survival	TXP3B	TXP6C
Enter a "1" if the NOEC for growth or reproduction is less than the critical dilution, otherwise enter a "0".	TGP3B	TGP6C
Report the NOEC value for growth or reproduction	TPP3B	TPP6C
Report the LOEC value for growth	TYP3B	TYP6C
Report the highest (critical dilution or control) Coefficient of Variation	TQP3B	TQP6C
(If required) Retest 1 – Enter a "1" if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter "0".	22418	22415
(If required) Retest 2- Enter a "1" if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter "0".	22419	22416
(If required) Retest 3- Enter a "1" if the NOEC for survival, growth or reproduction is less than the critical dilution, otherwise enter "0".	51444	51443

5. TOXICITY REDUCTION EVALUATIONS (TREs)

TREs for lethal and sub-lethal effects are performed in a very similar manner. EPA Region 6 is currently addressing TREs as follows: a sub-lethal TRE (TRE_{SL}) is triggered based on three sub-lethal test failures while a lethal effects TRE (TRE_L) is triggered based on only two test failures for lethality.

Within ninety (90) days of confirming persistent toxicity, the permittee shall submit a Toxicity Reduction

Evaluation (TRE) Action Plan and Schedule for conducting a TRE. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The goal of the TRE is to maximally reduce the toxic effects of effluent at the critical dilution and includes the following:

Specific Activities. The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents 'Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures' (EPA-600/6-91/003) and 'Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I' (EPA-600/6-91/005F), or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents 'Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity'_ (EPA/600/R-92/080) and 'Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity' (EPA/600/R-92/081), as appropriate.

b) Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;

Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 48 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;

Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and

Project Organization (e.g., project staff, project manager, consulting services, etc.).

The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.

The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:

any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent

toxicity;

any studies/evaluations and results on the treatability of the facility's effluent toxicity; and

any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.

A copy of the TRE Activities Report shall also be submitted to the state agency.

d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.

A copy of the Final Report on Toxicity Reduction Evaluation Activities shall also be submitted to the state agency.

e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.

The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:

any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

any studies/evaluations and results on the treatability of the facility's effluent toxicity; and

any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.

A copy of the TRE Activities Report shall also be submitted to the state agency.

d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.

A copy of the Final Report on Toxicity Reduction Evaluation Activities shall also be submitted to the state agency.

e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

6. MONITORING FREQUENCY REDUCTION

a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for one or both test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than twice per year for the more sensitive test species (usually the *Ceriodaphnia dubia*).

b. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item 3.a. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency=s Permit Compliance System section to update the permit reporting requirements.

c. SUB-LETHAL OR SURVIVAL FAILURES - If any test fails the survival or sub-lethal endpoint at any time during the life of this permit, three monthly retests are required and the monitoring frequency for the affected test species shall be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.

Any monitoring frequency reduction granted applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.