



REGION 6
1445 ROSS AVENUE
DALLAS, TEXAS 75202-2733

NPDES Permit No NM0028169

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"),

Resurrection Mining, LLC
Rio Puerco Mine
P.O. Box 222
Peralta, NM 87042

is authorized to discharge from a facility located at approximate eight miles southeast Marquez, in Sandoval County, New Mexico. The discharge will be to unnamed arroyo, to Canon Del Piojo (20.6.4.97 NMAC), to Salado Creek, thence to Rio Puerco, from a point located approximately

Outfall 001: Latitude 35° 16' 00" North and Longitude 107° 11' 35" West

in accordance with this cover page and the effluent limitations, monitoring requirements and other conditions set forth in Part I, Part II, III and Part IV.

This permit supersedes and replaces NPDES Permit No. NM0028169 with an effective date of April 1, 2011.

This permit shall become effective on

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

Issued on

Prepared by

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DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

| | |
|-------|--|
| 4Q3 | Lowest four-day average flow rate expected to occur once every three-years |
| BAT | Best available technology economically achievable |
| BCT | Best conventional pollutant control technology |
| BPT | Best practicable control technology currently available |
| BMP | Best management plan |
| BOD | Biochemical oxygen demand (five-day unless noted otherwise) |
| BPJ | Best professional judgment |
| CBOD | Carbonaceous biochemical oxygen demand (five-day unless noted otherwise) |
| CD | Critical dilution |
| CFR | Code of Federal Regulations |
| cfs | Cubic feet per second |
| COD | Chemical oxygen demand |
| COE | United States Corp of Engineers |
| CWA | Clean Water Act |
| DMR | Discharge monitoring report |
| ELG | Effluent limitation guidelines |
| EPA | United States Environmental Protection Agency |
| ESA | Endangered Species Act |
| FCB | Fecal coliform bacteria |
| FWS | United States Fish and Wildlife Service |
| mg/l | Milligrams per liter |
| ug/l | Micrograms per liter |
| lbs | Pounds |
| MGD | Million gallons per day |
| NMAC | New Mexico Administrative Code |
| NMED | New Mexico Environment Department |
| NMIP | New Mexico NPDES Permit Implementation Procedures |
| NMWQS | New Mexico State Standards for Interstate and Intrastate Surface Waters |
| NPDES | National Pollutant Discharge Elimination System |
| MQL | Minimum quantification level |
| O&G | Oil and grease |
| POTW | Publically owned treatment works |
| RP | Reasonable potential |
| SS | Settleable solids |
| SIC | Standard industrial classification |
| s.u. | Standard units (for parameter pH) |
| SWQB | Surface Water Quality Bureau |
| TDS | Total dissolved solids |
| TMDL | Total maximum daily load |
| TRC | Total residual chlorine |
| TSS | Total suspended solids |
| UAA | Use attainability analysis |
| USGS | United States Geological Service |
| WLA | Wasteload allocation |
| WET | Whole effluent toxicity |
| WQCC | New Mexico Water Quality Control Commission |
| WQMP | Water Quality Management Plan |
| WWTP | Wastewater treatment plant |

PART I – REQUIREMENTS FOR NPDES PERMITS**A. LIMITATIONS AND MONITORING REQUIREMENTS****1A. OUTFALL 001 - FINAL Effluent Limits**

During the period beginning the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge treated uranium mining and sanitary wastewater from Outfall 001 to the unnamed arroyo, to Canon Del Piojo (20.6.4.97 NMAC). Such discharges shall be limited and monitored by the permittee as specified below:

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | MONITORING REQUIREMENTS | |
|--------------------------|-----------------------|----------|----------------------------|-------------------------|
| | MINIMUM | MAXIMUM | MEASUREMENT FREQUENCY (*6) | SAMPLE TYPE |
| pH | 6.0 s.u. | 9.0 s.u. | 1/Week | Instantaneous Grab (*5) |

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | | | | MONITORING REQUIREMENTS | |
|--------------------------|-----------------------|------------|-------------------------|-----------|-----------------|-------------------------|--------------------|
| | lbs/day, unless noted | | mg/l, unless noted (*1) | | | MEASUREMENT FREQUENCY | SAMPLE TYPE |
| POLLUTANT | 30-DAY AVG | 7-DAY AVG | 30-DAY AVG | 7-DAY AVG | DAILY MAX | | |
| Flow | Report MGD | Report MGD | N/A | N/A | N/A | Continuous | Record |
| TSS | | | 20 | | 30 | 1/Week | Grab |
| COD | | | 100 | | 200 | 1/Week | Grab |
| Zinc, total | | | 0.5 | | 1.0 | 1/Week | Grab |
| Ra226, dissolved | | | 3 pCi/l | | 10 pCi/l | 1/Week | Grab |
| Ra226, total | | | 10 pCi/l | | 30 pCi/l | 1/Week | Grab |
| Uranium, total | | | 2 | | 4 | 1/Week | Grab |
| Ra226 + Ra228 | | | 20 pCi/l | | 30 pCi/l | 1/Week | Grab |
| TRC (*3) | | | | | 0.011 (*4) | 1/Week | Instantaneous Grab |
| Gross alpha (*9) | | | 10 pCi/l | | 15 pCi/l | 1/Week | Grab |
| E. coli bacteria | | | 548 cfu/100 ml | | 2507 cfu/100 ml | 1/Week | Grab |

| EFFLUENT CHARACTERISTICS | DISCHARGE MONITORING | | MONITORING REQUIREMENTS | |
|---|----------------------|---------------|----------------------------|-------------|
| | 30-DAY AVG | 48-HR MINIMUM | MEASUREMENT FREQUENCY (*8) | SAMPLE TYPE |
| WHOLE EFFLUENT TOXICITY TESTING 48-HR ACUTE NOEC FRESHWATER (*7) | Report | Report | Once/Quarter (*10) | Grab |
| Daphnia pulex | Report | Report | Once/Quarter (*10) | Grab |

1B. OUTFALL 01A (Internal) - FINAL Effluent Limits

During the period beginning the effective date of the permit and lasting through the expiration date of the permit (unless otherwise noted), the permittee is authorized to discharge treated sanitary wastewater from Outfall 01A to Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | MONITORING REQUIREMENTS | |
|--------------------------|-----------------------|----------|-------------------------|----------------------------|
| | POLLUTANT | MINIMUM | MAXIMUM | MEASUREMENT FREQUENCY (*6) |
| pH | 6.0 s.u. | 9.0 s.u. | 5/Week | Instantaneous Grab (*5) |

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | | | | MONITORING REQUIREMENTS | |
|--------------------------|-----------------------|------------|-------------------------|-----------|-----------|-------------------------|-----------------|
| | lbs/day, unless noted | | mg/l, unless noted (*1) | | | MEASUREMENT FREQUENCY | SAMPLE TYPE |
| POLLUTANT | 30-DAY AVG | 7-DAY AVG | 30-DAY AVG | 7-DAY AVG | DAILY MAX | | |
| Flow | Report MGD | Report MGD | | | | 5/Week | Totalized meter |
| BOD ₅ | | | 30 | | 45 | 1/Week | Grab |
| TSS | | | 30 | | 45 | 1/Week | Grab |

Footnotes for outfalls 001 & 01A:

- *1 See **Appendix A of Part II** of the permit for minimum quantification limits.
- *2 Reserved.
- *3 TRC shall be measured during periods when chlorine is used as either backup bacteria control or when disinfection of plant treatment equipment is required.
- *4 The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes.
- *5 Analyzed within 15 minutes of collection.
- *6 Once/discharge with no more than specified frequency (1/week or 5/week)
- *7 Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements for additional WET monitoring and reporting conditions.
- *8 The test shall take place between November 1 and April 30, if possible. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple failures. However, upon failure of any WET test, the permittee must report the results to EPA and NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification of the test failure. EPA and NMED will review the test results and determine the appropriate action necessary, if any.
- *9 Test method ML/MDL shall be sensitive to 15 pCi/L.
- *10 If all 4 tests pass in the 1st year, the frequency will be once/6 months thereafter; otherwise once/quarter remains unchanged for the remaining permit term.

3. FLOATING SOLIDS, VISIBLE FOAM AND/OR OILS

There shall be no discharge of floating solids or visible foam in other than trace amounts.

There shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

4. SAMPLE LOCATION

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge from the final treatment unit prior to the receiving stream. The sample point shall be clearly marked by the facility if it is not at the final outfall location. There shall be no flow from any source into the piping system after the sample point and prior to the final outfall. The locations shall be as follow:

Outfall 001: Combined discharge of treated mine and sanitary wastewater

Internal Outfall 01A: right after sanitary treatment system and before entering Outfall 001.

B. SCHEDULES OF COMPLIANCE

None.

C. MONITORING AND REPORTING (MAJOR DISCHARGERS)

Monitoring results shall be reported to EPA on either the electronic or paper Discharge Monitoring Report (DMR) approved formats. Monitoring results can be submitted electronically in lieu of the paper DMR Form. All DMRs shall be electronically reported effective December 21, 2016 per 40 CFR 127.16. To submit electronically, access the NetDMR website at www.epa.gov/netdmr and contact the R6NetDMR@epa.gov in-box for further instructions. Until you are approved for Net DMR, you must report on the Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. No additional copies are needed if reporting electronically, however when submitting paper form EPA No. 3320-1, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and copies to NMED as required (See Part III.D.IV of the permit). Reports shall be submitted monthly.

1. Reporting periods shall end on the last day of the month.
2. The permittee is required to submit regular quarterly reports as described above postmarked no later than the 15th day of the month following each reporting period.
3. The annual sludge report required in part IV of the permit is due on February 19 of each year and covers the previous calendar year from January 1 through December 31.
4. NO DISCHARGE REPORTING: If there is no discharge at Outfall 001 during the sampling month, place an "X" in the NO DISCHARGE box located in the upper right corner of the Discharge Monitoring Report.
5. If any 7-day average or 30-day average value exceeds the effluent limitations specified in Part I.A, the permittee shall report the excursion in accordance with the requirements of Part III.D.

6. Any 7-day average or 30-day average value reported in the required Discharge Monitoring Report which is in excess of the effluent limitation specified in Part I.A shall constitute evidence of violation of such effluent limitation and of this permit.
7. Other measurements of oxygen demand (e.g., TOC and COD) may be substituted for the five day Biochemical Oxygen Demand (BOD5), or for the five-day Carbonaceous Biochemical Oxygen Demand (CBOD5), as applicable, where the permittee can demonstrate long term correlation of the method with BOD5 or CBOD5 values, as applicable. Details of the correlation procedures used must be submitted and prior approval granted by the permitting authority for this procedure to be acceptable. Data reported must also include evidence to show that the proper correlation continues to exist after approval.
8. The permittee shall submit a copy of an annual summary of the data that results from WET testing to the agencies (EPA, MED)

D. OVERFLOW REPORTING

The permittee shall report all overflows with the Discharge Monitoring Report submittal. These reports shall be summarized and reported in tabular format. The summaries shall include: the date, time, duration, location, estimated volume, and cause of the overflow; observed environmental impacts from the overflow; actions taken to address the overflow; and ultimate discharge location if not contained (e.g., storm sewer system, ditch, tributary).

Overflows that endanger health or the environment shall be orally reported at (214) 665-6595 and NMED Surface Water Quality Bureau at (505) 827-0187, within 24 hours from the time the permittee becomes aware of the circumstance. A written report of overflows that endanger health or the environment shall be provided to EPA and the NMED Surface Water Quality Bureau within 5 days of the time the permittee becomes aware of the circumstance.

E. POLLUTION PREVENTION REQUIREMENTS

The permittee shall institute a program within 12 months of the effective date of the permit (or continue an existing one) directed towards optimizing the efficiency and extending the useful life of the facility. The permittee shall consider the following items in the program:

- a. The influent loadings, flow and design capacity;
- b. The effluent quality and plant performance;
- c. The age and expected life of the wastewater treatment facility's equipment;
- d. Bypasses and overflows of the tributary sewerage system and treatment works;
- e. New developments at the facility;
- f. Operator certification and training plans and status;
- g. The financial status of the facility;

- h. Preventative maintenance programs and equipment conditions and;
- i. An overall evaluation of conditions at the facility.

F. POLLUTANTS SCAN

The permittee shall submit 3 scans for each parameter below during the permit term. This submittal is additional pollutants requirement to Part D, Form 2C in the next permit renewal. The permittee shall collect and test the first mine water sample within 30 days after resuming to pump mining water. A second mine water analysis shall be performed within 30 days after the first analysis. Sample location(s) shall be documented in the report. Analytical requirements are listed below:

| Pollutant | Pollutant | Pollutant | Pollutant |
|---------------------------|--------------------------|---------------------|--|
| Antimony, (dissolved (D)) | Zinc, (D) | Dieldrin | Ra226 + Ra228 (pCi/l) |
| Arsenic, (D) | Aldrin | 2,3,7,8-TCDD dioxin | Tritium (pCi/l) |
| Nickel, (D) | Benzo(a)pyrene | Hexachlorobenzene | Adjusted gross alpha |
| Selenium, (D) | Chlordane | PCBs* | Strontium 90 (pCi/l) |
| Thallium, (D) | 4,4'-DDT and derivatives | Tetrachloroethylene | Dissolved hardness (as CaCO ₃ mg/L) |

* PCBs Testing shall use Method 1668A, as revised: Chlorinated Biphenyl Congeners in Water, Soil, Sediment and Tissue by High Resolution Gas Chromatography/High Resolution Mass Spectrometry (HRGC/HRMS).

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.

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 orally to EPA Region 6, Compliance and Assurance Division, Water Enforcement Branch (6EN-W), Dallas, Texas and concurrently to NMED within 24 hours from the time the permittee becomes aware of the violation followed by a written report in five days.

COD, Zn, Ra226 (dissolved), Ra226 (total), Uranium, Ra226 + Ra228, gross alpha

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.

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. OTHER ANALYTICAL PROCEDURE REQUIREMENTS

The effluent characteristics "soluble radium 226" and "total radium 226" shall be measured by one of the approved methods in accordance with the procedures discussed for soluble radium 226 and total radium 226 in Standard Methods for the Examination of Water and Wastewater, latest edition, or an equivalent method.

The effluent characteristic "Total Uranium" shall be measured by the procedure discussed in the HASL Procedural Manual, edition by John H. Harley, HASL 300 Health and Safety Laboratory, U.S. Atomic Energy Commission, 1973, pg. EU-03, or an equivalent method.

E. RADIOACTIVITY

The radioactivity of surface waters shall be maintained at the lowest practical level and shall in no case exceed the standards set forth in the New Mexico Radiation Protection Regulations, 20.3.1.400 through 20.3.1.499 NMAC (5-3-95)

F. WHOLE EFFLUENT TOXICITY TESTING (48-HR ACUTE 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): | 001 |
| REPORTED ON DMR AS FINAL OUTFALL: | 001 |
| 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 |

Daphnia pulex acute static renewal 48 hour definitive toxicity test using EPA 821 R 02 012 or the latest 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.

- a. The NOEC (No Observed Lethal Effect Concentration) is defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Acute 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.
- b. 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.
- c. Test failure is defined as a demonstration of statistically significant lethal effects to a test species at or below the effluent critical dilution.
- d. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple test failures. However, upon failure of any WET test, the permittee must report the test results to NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification the test failure. NMED will review the test results and determine the appropriate action necessary, if any.

2. 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:

- Each toxicity test control (0% effluent) must have a survival equal to or greater than 90%.
- The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent).
- The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal effects are exhibited.

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

The statistical analyses used to determine if there is a statistically 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 de-scribed in EPA 821 R 02 012 or the most recent update thereof.

If the conditions of Test Acceptability are met in Item 2.a above and the percent survival of the test organism is equal to or greater than 90% 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 an NOEC of not less than the critical dilution for the reporting requirements found in Item 3 below.

c. Dilution Water

- 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;
 - toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 2.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 synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;
- the test indicating receiving water toxicity has been carried out to completion (i.e., 48 hours);
- the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 3 below; and
- 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

- The permittee shall collect two grab samples from the outfall(s) listed at Item 1.a above.
- The permittee shall collect a second grab sample for use during the 24 hour renewal of each dilution concentration for the tests. The permittee must collect the grab samples so that the maximum holding time for any effluent sample shall not exceed 36 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first grab sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage.
- The permittee must collect the grab 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.
- 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 grab 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. The effluent grab sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 3 of this section.

3. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation Section of EPA 821 R 02 012, 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.

- b. A valid test for each species must be reported during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. Only ONE set of biomonitoring data for each species is to be recorded for each reporting period. The data submitted should reflect the LOWEST Survival results for each species during the reporting period. All invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached for EPA review.
- c. The permittee shall report the following results of each valid toxicity test. Submit retest information, if required, clearly marked as such. Only results of valid tests are to be reported.

Daphnia pulex

- If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM3D.
 - Report the NOEC value for survival, Parameter No. TOM3D.
 - Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM3D.
- d. If retests are required by NMED, enter the following codes:
 - For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
 - For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

4. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for a 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 *Daphnia pulex*).
- 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 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. Survival Failures - If any test fails the survival 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.
- d. This monitoring frequency reduction 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.