United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Authorization to Discharge under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

McCain Foods USA
Burley Factory

is authorized to discharge from the Burley Factory located in Burley, Idaho, at the following location(s):

Outfall	Receiving Water	Latitude	Longitude
001	Snake River	42° 32' 15"	113° 50' 50"
002	Snake River	42° 32' 15"	113° 50' 50"
004	Snake River	42° 32' 10"	113° 50' 25"

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective July 1, 2006.

This permit and the authorization to discharge shall expire at midnight, June 30, 2011.

The permittee shall reapply for a permit reissuance on or before January 1, 2011, 180 days before the expiration of this permit, if the permittee intends to continue operations and discharges at the facility beyond the term of this permit.

Signed this 9th day of June, 2006.

S. Marie Jennings / M. G.
Michael F. Gearheard, Director
Office of Water and Watersheds

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Schedule of Submissions

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit:

Item	Due Date
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 10th day of the month following the monitoring month.
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented by September 30, 2006 (see II.A.). The Plan must be kept on site and made available to EPA and IDEQ upon request.
3. Best Management Practices (BMP) Plan	The permittee must provide EPA and IDEQ with written notification that the Plan has been developed and implemented by September 30th, 2006 (see II.D.). The Plan must be kept on site and made available to EPA and IDEQ upon request.
4. NPDES Application Renewal	The application must be submitted by January 1, 2011 (see V.B.).
5. Surface Water Monitoring Report	The Report must be submitted with the next permit application.
6. Compliance Schedule	Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date (see III.J.)
7. Twenty-Four Hour Notice of Noncompliance Reporting	The permittee must report certain occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances (see III.G. and I.B.2.).

Table of Contents

Schedule of Submissions **2**

I. Limitations and Monitoring Requirements **5**

A. Discharge Authorization 5
B. Effluent Limitations and Monitoring 5
C. Whole Effluent Toxicity Testing Requirements 8
D. Surface Water Monitoring 10

II. Special Conditions **11**

A. Quality Assurance Plan (QAP) 11
B. E. Coli Schedule of Compliance – Outfall 001 12
C. Total Residual Chlorine Schedule of Compliance – Outfalls 002 and 004 12
D. Best Management Practices Plan 13

III. General Monitoring, Recording and Reporting Requirements **14**

A. Representative Sampling (Routine and Non-Routine Discharges) 14
B. Reporting of Monitoring Results 15
C. Monitoring Procedures 15
D. Additional Monitoring by Permittee 15
E. Records Contents 15
F. Retention of Records 16
G. Twenty-four Hour Notice of Noncompliance Reporting 16
H. Other Noncompliance Reporting 16
I. Changes in Discharge of Toxic Pollutants 17
J. Compliance Schedules 17

IV. Compliance Responsibilities **18**

A. Duty to Comply 18
B. Penalties for Violations of Permit Conditions 18
C. Need To Halt or Reduce Activity not a Defense 19
D. Duty to Mitigate 20
E. Proper Operation and Maintenance 20
F. Bypass of Treatment Facilities 20
G. Upset Conditions 21
H. Toxic Pollutants 21
I. Planned Changes 21
J. Anticipated Noncompliance 22

V. General Provisions **22**

A. Permit Actions 22
B. Duty to Reapply 22
C. Duty to Provide Information 22
D. Other Information 22
E. Signatory Requirements 22

F. Availability of Reports 23
G. Inspection and Entry 24
H. Property Rights 24
I. Transfers 24
J. State Laws 24

VI. Definitions 24

I. Limitations and Monitoring Requirements

A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from outfalls 001, 002 and 004 to the Snake River, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

B. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges from outfalls 001, 002 and 004 as specified in Tables 1 and 2, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.
2. The permittee must report within 24 hours any violation of the maximum daily or instantaneous maximum limits for the following pollutants: chlorine, ammonia and E. coli (See III.G.). Violations of all other effluent limits must be reported at the time that discharge monitoring reports are submitted (See III.B. and III.H.).
3. The permittee must not discharge, from any outfall, floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses of the receiving water.
4. Minimum Levels. For all effluent monitoring, the permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation. If the effluent limit is less than the minimum level of the most sensitive EPA-approved analytical method, the permittee must use the most sensitive EPA-approved analytical method. For parameters that do not have effluent limitations, the permittee must use methods that can achieve MLs less than or equal to those specified in Table 3 (Part I.D.). If there is no effluent limitation and no minimum level is listed in Table 3, the permittee may use any EPA-approved method for analysis.
5. The permittee must collect effluent samples from the effluent wastestream downstream of the last treatment unit and upstream of the discharge into the receiving waters.
6. The permittee must report on the monthly DMR the mass of chlorine added to the effluent discharged from outfall 001 for total or partial disinfection during the calendar month. If chlorine is added, the permittee must comply with the conditional total residual chlorine effluent limits and monitoring requirements in Table 1. Total residual chlorine effluent limitations for outfall 001 are not in effect and the permittee is not required to monitor for total residual chlorine in the effluent from outfall 001 if chlorine is not added to the effluent discharged through outfall 001.

7. Chlorine effluent limits and monitoring requirements for outfalls 002 and 004 are in effect at all times, but subject to a schedule of compliance (See II.C.)

8. The average monthly limit for total residual chlorine for outfall 001 is not quantifiable using EPA-approved analytical methods. EPA will use the minimum level (ML) of 100 μg/L as the compliance evaluation level for this parameter. The permittee will be considered compliant with the average monthly chlorine limitation if the monthly average chlorine concentration is less than 100 μg/L and the monthly average mass discharge of chlorine is less than 3.98 lb/day.

9. For purposes of calculating monthly averages, zero may be assigned for values less than the method detection limit (MDL), and the numeric value of the MDL may be assigned for values between the MDL and the ML. If the average value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if the average value is less than the ML, the permittee must report "less than {numeric value of the ML}." If a value is equal to or greater than the ML, the permittee must report and use the actual value. The resulting average value must be compared to the compliance level, the ML, in assessing compliance.

10. For purposes of reporting on the DMR for a single sample, if a value is less than the MDL, the permittee must report "less than {numeric value of the MDL}" and if a value is less than the ML, the permittee must report "less than {numeric value of the ML}.

11. The permittee must report the monthly average receiving water flow rate as recorded by the USGS gauge at Minidoka, Idaho (station #13081500) on the monthly DMR.

12. For effluent limitations that are contingent upon river flow, the flow tier must be determined using monthly the average river flow for the monitoring month, as recorded by the USGS gauge at Minidoka, Idaho (station #13081500). Only one effluent limit tier can be in effect during a calendar month.

13. When daily flow in the Snake River, as measured at the Minidoka Gauge, is less than 1100 CFS, one pH measurement shall be taken daily in the Snake River, 400 yards downstream of Outfall 001.

14. For effluent limitations that are contingent upon pH, the pH must be determined using the average receiving water pH for the reporting month, measured as required in Part I.B.11 of this permit. The permittee must report the average and maximum river pH for the monitoring month.

Table 1: Effluent Limits and Monitoring Requirements for Outfall 001

Parameter	Units	Effluent limits		Monitoring Requirements	
		Average Monthly Limit	Max. Daily Limit	Monitoring Frequency	Sample Type
Flow	mgd	Report	Report	Continuous	Recording
Stream Flow	CFS	See I.B.9. and I.B.10.		Daily	See I.B.9.
BOD_5 (River Flow < 500 CFS)[7]	lb/day	1500	3000	1/week	24-hour composite
BOD_5 (500 CFS ≤ River Flow < 1100 CFS)[7]	lb/day	2050	4100	1/week	24-hour composite
BOD_5 (River Flow ≥ 1100 CFS)[7]	lb/day	4244	8488	1/week	24-hour composite
TSS	lb/day	4244	8488	1/week	24-hour composite
pH	s.u.	6.0 – 9.0 at all times		5/week	Grab
Total Phosphorus as P	lb/day	399	772	2/week	24-hour composite
Total Ammonia as N[3] Oct. 1 – Oct. 31	mg/L	Report	Report	1/month	24-hour composite
	lb/day	1600	2700		
Total Ammonia as N[3,7] Nov. 1 – Apr. 30 (River Flow ≥ 1100 CFS)	mg/L	12.5	43.5	1/week	24-hour composite
	lb/day	497	1732		
Total Ammonia as N[3,7,8] Nov. 1 – Apr. 30 (River Flow < 1100 CFS & pH ≤ 8.50)	mg/L	6.16	21.4	1/week	24-hour composite
	lb/day	245	853		
Total Ammonia as N[3,7,8] Nov. 1 – Apr. 30 (River Flow < 1100 CFS & pH > 8.50)	mg/L	3.44	12.0	1/week	24-hour composite
	lb/day	137	476		
Total Ammonia as N May 1 – Sept. 30	mg/L	Report	Report	1/month	24-hour composite
Total Residual Chlorine[3,5,6]	µg/L	99.0	199	5/week	Grab
	lb/day	3.94	7.90		
Oil and Grease	Visual	No Visible Sheen		1/month	Visual
Floating, Suspended or Submerged Matter	Visual	Narrative Limitation (see I.B.3.)		1/month	Visual
E. Coli Bacteria[3,9]	#/100 ml	126[1]	406[2]	5/month	Grab
Temperature	°C	Report	32	1/week	Grab
Alkalinity	mg/L as $CaCO_3$	Report	Report	1/quarter[4]	24-hour composite
Oil and Grease	mg/L	Report	Report	1/quarter[4]	Grab
Nitrate + Nitrite as N	mg/L	Report	Report	1/quarter[4]	24-hour composite
Whole Effluent Toxicity	TUc	See I.C.		Once	24-hour composite

Notes:

1. The monthly geometric mean E. Coli concentration must not exceed 126 organisms/100 ml.
2. No single sample collected during a calendar month may exceed a concentration of 406 organisms/100 ml (instantaneous maximum limit).
3. Twenty-four hour reporting is required in case of a maximum daily limit violation.
4. Quarters are defined as January through March, April through June, July through September and October through December. Results for monitoring performed quarterly must be submitted with the DMR for the last month of the quarter (i.e. the March, June, September and December DMRs).
5. The permittee must comply with these effluent limits and monitoring requirements for total residual chlorine whenever chlorine is used for total or partial disinfection of the effluent. See I.B.5.
6. See I.B.8. and 1.B.9.
7. See I.B.11. and I.B.12.
8. See I.B.13. and I.B.14.
9. Effluent limits for E. Coli are subject to a compliance schedule. See II.B.

Table 2: Effluent Limits and Monitoring Requirements for Outfalls 002 and 004

Parameter	Units	Effluent limits		Monitoring Requirements	
		Average Monthly Limit	Maximum Daily Limit	Monitoring Frequency	Sample Type
Flow	mgd	Report	Report	1/week	measure
Total Residual Chlorine[2,3] (Outfall 002)	mg/L	0.130	0.393	1/week	grab
	lb/day	3.85	11.6		calculation
Total Residual Chlorine[2,3] (Outfall 004)	mg/L	0.148	0.419	1/week	grab
	lb/day	4.10	11.6		calculation
pH	s.u.	Report maximum and minimum		1/week	grab
Temperature	°C	Report	Report	1/month	grab
BOD_5	mg/L	Report	Report	1/month	grab
TSS	mg/L	Report	Report	1/month	grab
Oil and Grease	mg/L	Report	Report	1/month	grab
Alkalinity	mg/L as $CaCO_3$	Report	Report	1/quarter[1]	grab

Notes:
1. Quarters are defined as January through March, April through June, July through September and October through December. Results for monitoring performed quarterly must be submitted with the DMR for the last month of the quarter (i.e. the March, June, September and December DMRs).
2. Twenty-four hour reporting is required in case of a maximum daily limit violation.
3. Total residual chlorine effluent limits for outfalls 002 and 004 are subject to a schedule of compliance. See II.C.

C. Whole Effluent Toxicity Testing Requirements

The permittee must conduct chronic toxicity tests on effluent samples from outfall 001. Testing must be conducted in accordance with subsections 1 through 5, below.

1. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part 1.B. above. When the timing of sample collection coincides with that of the sampling required in Part I.B., analysis of the split sample will fulfill the requirements of Part I.B. as well.

2. Chronic Test Species and Methods

   a) At a minimum, a chronic test must be conducted for outfall 001 once during the fourth year of the permit cycle between November 1st and April 30th.

   b) The permittee must conduct short-term tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test), and the fathead minnow, *Pimephales promelas* (larval survival and growth test).

   c) The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002.

   d) Results must be reported in TU_c (chronic toxic units), where $TU_c = 100/IC_{25}$. See Part VI. for a definition of IC_{25}.

3. Quality Assurance

   a) The toxicity testing on each organism must include a series of five test dilutions and a control. The dilution series must include the receiving water concentration of 7.9% effluent; two dilutions above the RWC, and two dilutions below the RWC.

   b) All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002, and individual test protocols.

   c) In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

      (i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.

      (ii) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

      (iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. Receiving water may be used as control and dilution water upon notification of EPA and IDEQ. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

4. Reporting

   a) The permittee must submit the results of the toxicity tests with the discharge monitoring reports (DMR). Toxicity tests must be reported annually on the December DMR.

   b) The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Fourth Edition, EPA/821-R-02-013, October 2002. In addition to toxicity test results, the permittee must report: dates of sample collection and initiation of each test; flow rate at the time of sample collection; and the results of the monitoring required in Part I.B.

5. Accelerated Testing.

   a) If chronic toxicity is detected above the trigger of 12.7 TU_c, the permittee must conduct four more biweekly tests over an eight week period. This

accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence of the trigger.

b) The permittee must notify EPA of the exceedence in writing within two weeks of receipt of the test results. The notification must include the following information:

(i) A status report on any actions required by the permit, with a schedule for actions not yet completed.

(ii) A description of any additional actions the permittee has taken or will take to investigate and correct the cause(s) of the toxicity.

(iii) Where no actions have been taken, a discussion of the reasons for not taking action.

D. Surface Water Monitoring

The permittee must conduct surface water monitoring. Surface water monitoring must start by October 1, 2006 and continue as long as the permit remains in force. The program must meet the following requirements:

1. Monitoring stations must be established in the Snake River at the following locations:

   a) Above the influence of the facility's discharges, and

   b) Below the facility's discharges and above the influence of other point source discharges.

2. The permittee must seek written approval of the surface water monitoring stations from IDEQ.

3. A failure to obtain IDEQ approval of surface water monitoring stations does not relieve the permittee of the surface water monitoring requirements of this permit.

4. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.

5. To the extent practicable, upstream and downstream sample collection must occur during the same 24-hour period.

6. All ambient samples must be grab samples.

7. Samples must be analyzed for the parameters listed in Table 3, and must achieve minimum levels (MLs) that are equivalent to or less than those listed in Table 3. The permittee may request different MLs. The request must be in writing and must be approved by EPA.

8. Quality assurance/quality control plans for surface water monitoring must be documented in the Quality Assurance Plan required under Part II.A., "Quality Assurance Plan".

9. Surface water monitoring results must be submitted to EPA and IDEQ with the application for renewal of this NPDES permit. At a minimum, the report must include the following:

   a) Dates of sample collection and analyses.

   b) Results of sample analysis.

   c) Relevant quality assurance/quality control (QA/QC) information.

Table 3: Surface Water Monitoring Requirements

Parameter (units)	Sample Frequency	Maximum ML
Upstream Monitoring		
Flow	See I.B.9.	---
Temperature (°C)	4/year[1]	---
pH (s.u.)	4/year[1]	---
Total Ammonia as N (mg/L)	4/year[1]	0.05
Alkalinity (mg/L)	2/year[2]	10
Downstream Monitoring		
Temperature (°C)	2/year[2]	---
pH (s.u.)	See I.B.11.	---
Total Ammonia as N (mg/L)	2/year[2]	0.05

Notes:
1. At a minimum, sampling must occur once during the season of November 1st through April 30th once during the month of May, once during the season of June 1 through September 30th, and once during the month of October.
2. At a minimum, sampling must occur once during the season of November 1st through April 30th and once during the season of May 1st through October 31st.

II. Special Conditions

A. Quality Assurance Plan (QAP)

The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The permittee must provide EPA and IDEQ with written notification that the plan has been developed and implemented by September 30th, 2006. Any existing QAPs may be modified for use under this section.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.

2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format that is specified in these documents.

3. At a minimum, the QAP must include the following:

a) Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

b) Map(s) indicating the location of each sampling point.

c) Qualification and training of personnel.

d) Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.

4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.

5. Copies of the QAP must be kept on site and made available to EPA and/or IDEQ upon request.

B. E. Coli Schedule of Compliance – Outfall 001

1. The permittee must achieve compliance with the E. Coli limitations of Part I.B. for outfall 001 (Table 1), by 2 years from the effective date of this permit.

2. The permittee must submit a Report of Progress every six months which outlines the progress made towards reaching the compliance date for the E. Coli effluent limitations. The first report is due six months after the effective date of the permit and every six months thereafter, until compliance with the E. Coli effluent limits is achieved. See also Part III.J., "Compliance Schedules". At a minimum, the report must include:

a) An assessment of the previous year of E. Coli data and comparison to the effluent limitations.

b) A report on progress made towards meeting the effluent limitations.

c) Further actions and milestones targeted for the upcoming six months.

C. Total Residual Chlorine Schedule of Compliance – Outfalls 002 and 004

1. The permittee must achieve compliance with the total residual chlorine effluent limitations of Part I.B. for outfalls 002 and 004 (Tables 2 and 3), by 4 years and 6 months from the effective date of this permit.

2. The permittee must submit an Annual Report of Progress which outlines the progress made towards reaching the compliance date for the total residual chlorine effluent limitations. The annual Report of Progress must be submitted by one year after the effective date of the permit of each year. The first report is due one year after the effective date of the permit and annually thereafter, until compliance with the total residual chlorine effluent limits is achieved. See also Part III.J., "Compliance Schedules". At a minimum, the annual report must include:

a) An assessment of the previous year of total residual chlorine data and comparison to the effluent limitations.

b) A report on progress made towards meeting the effluent limitations.

c) Further actions and milestones targeted for the upcoming year.

D. Best Management Practices Plan

1. Purpose:

Through implementation of the best management practices (BMP) plan, the permittee must prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal and ancillary activities.

2. Development and Implementation Schedule:

The permittee must provide EPA Region 10 and IDEQ with written notification that the BMP plan has been developed and implemented within by September 30th, 2006. Any existing BMP plans may be modified to fulfill the requirements of this section. The permittee must implement the provisions of the plan as conditions of this permit by September 30th, 2006.

3. Documentation:

The permittee must maintain a copy of the BMP Plan at the facility and make it available to EPA, IDEQ or an authorized representative upon request.

4. Elements of the BMP Plan:

a) The BMP Plan must be consistent with the objectives above and the general guidance contained *in Guidance Manual for Developing Best Management Practices* (EPA 833-B-93-004, October 1993) and *Storm Water Management For Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices* (EPA 832-R-92-006) or any subsequent revision to these guidance documents. The BMP Plan must include, at a minimum, the following:

(i) Statement of the permittee's BMP policy

(ii) Good housekeeping procedures.

(iii) Facility and equipment maintenance.

(iv) Inspections and records.

b) Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures to achieve the purpose of the BMP Plan under subpart 1, and which ensure that the following specific requirements are met:

(i) Research and development of BMPs

(ii) Plant operator education

(iii) Potential upgrades of waste management facilities,

(iv) Improved operation and maintenance procedures

(v) Solids, sludges, or other pollutants removed in the course of treatment or control of water and wastewaters must be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the United States.

(vi) Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA). Management practices required under RCRA regulations must be referenced in the BMP Plan.

5. BMP Plan Modification

a) The permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to surface waters.

b) The permittee must amend the BMP Plan whenever it is found to be ineffective in achieving the general objective of preventing and minimizing the generation and the potential for the release of pollutants from the facility to the waters of the United States and/or the specific requirements above.

c) Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above.

III. General Monitoring, Recording and Reporting Requirements

A. Representative Sampling (Routine and Non-Routine Discharges)

Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in Part I.B. of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with paragraph III.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph III.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results

The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 10th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E. of this permit ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, with copies to IDEQ at the following addresses:

US EPA Region 10
Attn: PCS Data Entry Team
1200 Sixth Avenue, OCE-133
Seattle, Washington 98101

Idaho Department of Environmental Quality
1363 Fillmore St.
Twin Falls, ID 83301

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

D. Additional Monitoring by Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

Upon request by EPA, the permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents

Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of the individual(s) who performed the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

F. Retention of Records

The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA or IDEQ at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

   a) any noncompliance that may endanger health or the environment;

   b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F., "Bypass of Treatment Facilities");

   c) any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions"); or

   d) any violation of a maximum daily discharge limitation for applicable pollutants identified by footnote #3 of Table 1 and footnote #2 of Table 2, and Part I.B.2.

2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. The written submission must contain:

   a) a description of the noncompliance and its cause;

   b) the period of noncompliance, including exact dates and times;

   c) the estimated time noncompliance is expected to continue if it has not been corrected; and

   d) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

3. The Director of the Office of Compliance and Enforcement may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

4. Reports must be submitted to the addresses in Part III.B ("Reporting of Monitoring Results").

H. Other Noncompliance Reporting

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B ("Reporting of

Monitoring Results") are submitted. The reports must contain the information listed in Part III.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

I. Changes in Discharge of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and IDEQ as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a **routine or frequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following "notification levels":
   a) One hundred micrograms per liter (100 ug/l);
   b) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
   c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
   d) The level established by EPA in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in any discharge, on a **non-routine or infrequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following "notification levels":
   a) Five hundred micrograms per liter (500 ug/l);
   b) One milligram per liter (1 mg/l) for antimony;
   c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
   d) The level established by EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to Office of Water and Watersheds at the following address:

   US EPA Region 10
   Attn: NPDES Permits Unit Manager
   1200 Sixth Avenue, OWW-130
   Seattle, Washington 98101

J. Compliance Schedules

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

IV. Compliance Responsibilities

A. Duty to Comply

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

B. Penalties for Violations of Permit Conditions

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $32,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $32,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $157,500).

3. Criminal Penalties:

   a) Negligent Violations. The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to

criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

b) Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

c) Knowing Endangerment. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

d) False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C. Need To Halt or Reduce Activity not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

D. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.

2. Notice.

   a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior written notice, if possible at least 10 days before the date of the bypass.

   b) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G ("Twenty-four Hour Notice of Noncompliance Reporting").

3. Prohibition of bypass.

   a) Bypass is prohibited, and the Director of the Office of Compliance and Enforcement may take enforcement action against the permittee for a bypass, unless:

      (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

      (iii) The permittee submitted written notices as required under paragraph 2 of this Part.

b) The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this Part.

G. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

   b) The permitted facility was at the time being properly operated;

   c) The permittee submitted notice of the upset as required under Part III.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and

   d) The permittee complied with any remedial measures required under Part IV.D, "Duty to Mitigate."

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

H. Toxic Pollutants

The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

I. Planned Changes

The permittee must give written notice to the Director of the Office of Water and Watersheds as specified in part III.I.3. and IDEQ as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under Part III.I ("Changes in Discharge of Toxic Substances").

J. Anticipated Noncompliance

The permittee must give written advance notice to the Director of the Office of Compliance and Enforcement and IDEQ of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

V. General Provisions

A. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

B. Duty to Reapply

If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Regional Administrator, the permittee must submit a new application by January 1, 2011.

C. Duty to Provide Information

The permittee must furnish to EPA and IDEQ, within the time specified in the request, any information that EPA or IDEQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee must also furnish to EPA or IDEQ, upon request, copies of records required to be kept by this permit.

D. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to EPA or IDEQ, it must promptly submit the omitted facts or corrected information in writing.

E. Signatory Requirements

All applications, reports or information submitted to EPA and IDEQ must be signed and certified as follows.

1. All permit applications must be signed as follows:
   a) For a corporation: by a responsible corporate officer.
   b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
   c) For a municipality, state, federal, Indian tribe, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by EPA or IDEQ must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a) The authorization is made in writing by a person described above;

   b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and

   c) The written authorization is submitted to the Director of the Office of Compliance and Enforcement and IDEQ.

3. Changes to authorization. If an authorization under Part V.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.E.2. must be submitted to the Director of the Office of Compliance and Enforcement and IDEQ prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this Part must make the following certification:

   > "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. Availability of Reports

In accordance with 40 CFR 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. Inspection and Entry

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; IDEQ; or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

H. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

I. Transfers

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds as specified in part III.I.3. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

J. State Laws

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

VI. Definitions

1. "Act" means the Clean Water Act.
2. "Administrator" means the Administrator of the EPA, or an authorized representative.

3. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
4. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "Chronic toxic unit" ("TUc") is a measure of chronic toxicity. TUc is the reciprocal of the effluent concentration that causes no observable effect on the test organisms by the end of the chronic exposure period (i.e., $100/IC_{25}$).
7. "Composite" - see "24-hour composite".
8. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
9. "Director of the Office of Compliance and Enforcement" means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
10. "Director of the Office of Water and Watersheds" means the Director of the Office of Water and Watersheds, EPA Region 10, or an authorized representative.
11. "DMR" means discharge monitoring report.
12. "EPA" means the United States Environmental Protection Agency.
13. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
14. "IDEQ" means the Idaho Department of Environmental Quality.
15. "Inhibition concentration", IC, is a point estimate of the toxicant concentration that causes a given percent reduction (p) in a non-quantal biological measurement (e.g., reproduction or growth) calculated from a continuous model (e.g., Interpolation Method).
16. "Maximum daily discharge limitation" means the highest allowable "daily discharge."

17. "Method Detection Limit (MDL)" means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

18. "Minimum Level (ML)" means the concentration at which the entire analytical system must give a recognizable signal and an acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specified sample weights, volumes and processing steps have been followed.

19. "NPDES" means National Pollutant Discharge Elimination System, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits . . . under sections 307, 402, 318, and 405 of the CWA.

20. "QA/QC" means quality assurance/quality control.

21. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.

22. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

23. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

24. "24-hour composite" sample means a combination of at least 8 discrete sample aliquots of at least 100 milliliters, collected over periodic intervals from the same location, during the operating hours of a facility over a 24 hour period. The composite must be flow proportional. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.