

Permit No. ID-000061-2  
Application No.: ID-000061-2

U.S. Environmental Protection Agency (EPA), Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101  
(206) 553-1214

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, Incorporated  
(Burley Factory)

is authorized to discharge from a facility located in Burley, Idaho, to receiving waters named Snake River between River Miles 648.8 and 649.2, in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective May 1, 2000

This permit and the authorization to discharge shall expire at midnight, May 1, 2005

Signed this 28th day of March 2000

/s/Randall F. Smith  
Randall F. Smith  
Director, Office of Water, Region 10  
U.S. Environmental Protection Agency

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## I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Specific Limitations and Monitoring Requirements.

1. During the period beginning on the effective date of this permit, and lasting through the expiration date, the permittee is authorized to discharge from Outfall 001 in accordance with the effluent limitations and monitoring requirements as specified below:

<u>Effluent Characteristics</u>	<u>Average River Flow</u>	<u>Effluent Limitations</u>		<u>Monitoring Requirements</u>	
		<u>Monthly Avg.</u> (lbs/day)	<u>Daily Max.</u> (lbs/day)	<u>Measurement Frequency</u>	<u>Sample Type</u>
Biochemical Oxygen Demand, 5-day (BOD <sub>5</sub> )	1100 cfs or greater	4100	8200	2 per week	24-hr. composite
	Between 500 cfs and 1100 cfs	2050	4100	2 per week	24-hr. composite
	Less than 500 cfs	1500	3000	2 per week	24-hr. composite
Total Suspended Solids (TSS)	----	4100	8200	2 per week	24-hr. composite
Ammonia (as N)					
	For the period from Oct. 1 to Nov. 30, with river flows:				
	1100 cfs or greater	1600	2700	2 per week	24-hr. composite
	Less than 1100 cfs	1300	1700	2 per week	24-hr. composite
	For the period from Dec. 1 to April 30, with river flows:				
	1100 cfs or greater	1380	2760	2 per week	24-hr. composite
	Between 750 cfs and 1100 cfs	900	1800	2 per week	24-hr. composite
	Less than 750 cfs with:				
	pH ≤ 8.35	850	1500	2 per week	24-hr. composite
	pH > 8.35	560	1500	2 per week	24-hr. composite
	For the period from May 1 to September 30:	----	----	2 per week	24-hr. composite
Temperature (EC)	----	----	32E	Daily	Grab

<u>Effluent Characteristics</u>	<u>Average River Flow</u>	<u>Effluent Limitations</u>		<u>Monitoring Requirements</u>	
		<u>Monthly Avg.</u> (lbs/day)	<u>Daily Max.</u> (lbs/day)	<u>Measurement Frequency</u>	<u>Sample Type</u>
pH	----	Not less than 6.0 standard units nor greater than 9.0 standard units		Daily	Grab
Fecal Coliform Bacteria (Number/100 ml) <sup>1/</sup>	----	----	----	2/Month	Grab
Total Phosphorus (as P)	----	500 <sup>2</sup>	820 <sup>2</sup>	Weekly	24-hour composite
Nitrate-Nitrite Nitrogen (as N)	----	----	----	Weekly	24-hour composite
Total Kjeldahl Nitrogen (as N)	----	----	----	Weekly	24-hour composite
Effluent Flow (mgd)	----	----	----	Daily	continuously
River Flow (cfs)	----	----	----	2 per week (See Part I.A.1.c and I.E.1)	

- a. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- b. Samples taken in compliance with the monitoring requirements specified above shall be taken in the outfall line below all treatment units but prior to actual discharge.
- c. When flow in the Snake River, as measured at the Minidoka gage, is less than 750 cfs, one pH measurement shall be taken daily at noon in the Snake River, 400 yards downstream of Outfall 001.

<sup>1/</sup>

If after monitoring of the effluent for a period of one year from the permit issuance date is demonstrated that no fecal coliform bacteria are present in the treated effluent, the permittee may request that bacteria monitoring be discontinued for the remaining duration of the permit; and EPA will grant the request if it is supported by the monitoring results.

<sup>2/</sup> The total phosphorus limitation is effective beginning on August 30, 2004, consistent with Section I.E.

2. During the period beginning on the effective date of this permit, and lasting through the expiration date, the permittee is authorized to discharge from Outfalls 002 and 004, in accordance with the monitoring requirements as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>MONITORING REQUIREMENTS</u>	
	<u>Measurement Frequency*</u>	<u>Sample Type</u>
Flow, mgd	daily	measurement
Temperature, EC	daily	grab
BOD <sub>5</sub>	1/week	grab
TSS	1/week	grab
Oil and Grease	1/week	grab

\*Whenever there is a discharge.

B. Biomonitoring Program Requirements.

The permittee shall conduct chronic tests for effluent toxicity using protocols contained in Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms (Third Edition, EPA-600-4-91-002, July 1994). Such testing will determine if the effluent affects the survival or growth of the test organisms. The tests conducted shall be the fathead minnow, Pimephales promelas, 7-day larval survival and growth test and Ceriodaphnia dubia 7-day survival and reproduction test. All tests shall be conducted on split samples from the same 24-hour composite samples of effluent. If, in any test, more than 20% of the control organisms die, that test shall be repeated. Control and dilution water should be receiving water or lab water, as described in the manual. In no case shall any water that has not met test acceptability criteria be used for either control or dilution water.

Toxic effects will be demonstrated if there is a statistically significant difference in response between the control and test organisms for either of the two tests at the trigger specified below. The permittee shall conduct the two tests in the fourth year of the permit during the period of October 1- April 30.

The chronic tests shall identify the no observable effect concentration (NOEC) for each of the two species. The tests shall include a series of dilutions using a dilution factor of 0.32 starting with 100% Effluent (100, 32, 10, 3, 1, and 0.3). The NOEC is the effluent concentration (expressed as % Effluent) in control water at which there is no statistically significant difference in response between the control and test organisms in either of the two tests.

If chronic (NOEC) toxicity is found in either toxicity test (for the two species) at a dilution at or below 3.1% effluent during the period of October 1 through April 30, then six more bi-weekly chronic tests will be required using the most sensitive species. Biomonitoring results shall be submitted to EPA the month after testing along with the monthly DMR.

C. Ambient Receiving Water Quality Monitoring Requirements.

To document the impact, if any, of the permitted discharges on receiving water quality, and to verify on a continuing basis that the discharges are not resulting in exceedance of the applicable Idaho Water Quality Standards criteria for dissolved oxygen, total ammonia, and other criteria, the permittee shall conduct the following ambient monitoring program each year throughout the duration of the permit.

The monitoring program may be conducted jointly with J.R. Simplot Company which has identical ambient monitoring requirements in NPDES permit No. ID-000066-3. If both permittees agree to conduct the monitoring program jointly, documentation attesting to the agreement must be signed by both permittees in accordance with the signatory requirements of Part IV.H., and made available to the Director or authorized representative upon request.

1. Monitoring stations shall include the following locations:
  - a. Snake River, Highway 30 Bridge, River Mile 653.8.
  - b. Snake River, Highway 27 Bridge, below J.R. Simplot discharge, River Mile 651.8.
  - c. Snake River, above McCain Foods discharge, River Mile 649.5.
  - d. Snake River, below McCain Foods discharge, River Mile 647.3.
  - e. Snake River, one half mile above Milner Dam, River Mile 639.6.
  - f. Main Drain near its confluence with the Snake River below Station d.
2. As a minimum, receiving water sampling shall be conducted once during each of the following months: August and November. And the samples shall be collected at the following points: (1) Stations I.C.1.a., b., c., d., and f. at mid-channel and 1 meter depth, and (2) Station I.C.e. at the right quarter point and depths of 1, 5, and 9 meters.
3. Water quality parameters to be sampled and analyzed shall include the following: temperature, pH, specific conductance, alkalinity, nitrate-nitrite (as N), dissolved oxygen, biochemical oxygen demand (5-day), total suspended solids, total phosphorus (as P), total ammonia (as N), and total kjeldahl nitrogen (as N) at all monitoring stations; and fecal coliform bacteria at Stations I.D.1.a., b., c., and d.
4. Receiving water sampling shall be selected to coincide with days that outfall discharge sampling is being conducted on the discharges.
5. Receiving water and discharge sampling results shall be submitted the month after testing with the monthly DMR.
6. The scheduled sample collection dates may be adjusted when inclement weather conditions endanger the safety of the person collecting the samples.

D. Best Management Practices Plan

1. Applicability. During the term of this permit the

permittee shall operate in accordance with a Best Management Practices (BMP) Plan.

2. Implementation. The permittee shall develop, implement and submit to EPA a BMP Plan by February 28, 2000.
3. Purpose. Through the implementation of a BMP Plan the permittee shall prevent or minimize the generation and discharge of total phosphorus from the facility to the waters of the United States and assure upland disposal of wastes in such a way as to have a minimal environmental impact. Pollution should be prevented or reduced at the source or recycled in an environmentally safe manner whenever feasible.
4. Requirements. The BMP Plan shall include the following:
  - a. Statement of the permittee's BMP policy;
  - b. Identification of total phosphorus sources and an assessment of total phosphorus discharges within the facility;
  - c. Specific management practices and standard operating procedures to achieve the above purpose, including, but not limited to,
    - i) reduction of sodium acid pyrophosphate (SAPP) usage,
    - ii) research to identify, segregate and treat total phosphorus in waste streams,
    - iii) research and development of BMPs,
    - iv) plant operator education,
    - v) potential upgrades of waste management facilities,
    - vi) improved operation and maintenance procedures,
  - d. Good housekeeping procedures;
  - e. Facility and equipment maintenance;
  - f. Inspections and records;
5. Documentation. The permittee shall submit the BMP Plan to EPA within 180 days from the effective date of the permit modification. A permittee shall maintain a copy of its BMP Plan at its facility and shall make the plan available to representatives of EPA or IDHW-DEQ upon request.
6. BMP Plan Modification. The permittee shall 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 and their release or potential release to the receiving waters. The permittee shall also amend the BMP Plan, as appropriate, when facility operations covered by the BMP Plan change. Any such changes to the BMP Plan shall be consistent with the purpose and specific requirements listed above. All changes in the BMP Plan shall be reviewed by the facility manager.



E. Total Phosphorus Schedule of Compliance

1. The permittee shall achieve compliance with the total phosphorus effluent limitations of Section I.A.1. by August 30, 2004.
2. Reporting. The permittee shall submit an annual Report of Progress which outlines the progress made towards reaching the compliance date for total phosphorus effluent limitations. The annual report shall include an assessment of the previous year of phosphorus data and comparison to final effluent limitations, a report on progress made towards meeting the final limitations, and milestones targeted for the upcoming year. The annual Report of Progress shall be submitted with the January Discharge Monitoring Report (DMR). The first report is due with the January 2000 DMR and annually thereafter, until compliance with the effluent limit is achieved.

F. Definitions.

1. The "average river flow" for any date shall mean the arithmetic average of flows recorded by the USGS gage at Minidoka, Idaho during the 30 days immediately prior to that date. The permittee shall record and report the average and maximum river flows.
2. With respect to limitations which do not vary with average river flow, the "Monthly Average" ("Monthly Avg.") shall mean the total units discharged during a monitoring month divided by the number of days in that period that the production or commercial facility was operating. Where less than daily sampling is required by this permit, this average shall be determined by the summation of the measured daily discharges divided by the number of days during the monitoring month when the measurements were made.
3. With respect to limitations which vary with average river flow, the "Monthly Average" shall mean the total discharge by weight on all days of a given calendar month that the average river flow is within a specific range, divided by the number of such days in that month.
4. "Daily Maximum" ("Daily Max.") shall mean the maximum value attained on any day in a given monitoring month.
5. "Monitoring Month" shall mean the period consisting of the calendar weeks which end in a given calendar month.
6. A "24-hour composite" sample shall mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100 ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
7. A "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

8. "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 preventative maintenance, or careless or improper operation.
9. "Bypass" means the intentional diversion of waste from any portion of a treatment facility.

## II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR). The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part IV.H. Signatory Requirements, and submitted to the Director, Water Division and the State agency at the following addresses:
- original to: United State Environmental Protection Agency  
(EPA) Region 10  
1200 Sixth Avenue, WD-135  
Seattle, Washington 98101
- copy to: Idaho Department of Health and Welfare (IDHW-DEQ)  
Division of Environmental Quality  
601 Pole Road, Suite 2  
Twin Falls, Idaho 83301-3035
- D. Additional Monitoring by the 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 results of this monitoring shall be included in the calculations and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
  2. The individual(s) who performed the sampling or measurements;
  3. The date(s) analyses were performed;
  4. 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 shall 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, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be

extended by request of the Director at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. Twenty-four Hour Notice of Noncompliance Reporting.

1. The following occurrences of noncompliance shall be reported by telephone within 24 hours from the time the permittee becomes aware of the circumstances (for noncompliance that endangers listed Snake River snail species, the permittee shall also report to the U.S. Fish and Wildlife Service at (208) 378-5243):
  - a. Any discharge(s) to the receiving waters not authorized for coverage under this Permit;
  - b. Any noncompliance which may endanger health, the environment, or listed Snake River snail species;
  - c. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G., Bypass of Treatment Facilities.);
  - d. Any upset which exceeds any effluent limitation in the permit (See Part III.H., Upset Conditions.);
  - e. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its causes;
  - 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 reoccurrence of the noncompliance.
3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by phone, (206) 553-1256.
4. Reports shall be submitted to the addresses in Part II.C., Reporting of Monitoring results. Reports on noncompliance occurrences that endanger listed Snake River snail species shall also be sent to the U.S. Fish and Wildlife Service at Snake River Office, 1387 South Vinnell Way, Room 368, Boise, Idaho, 83709.

H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.C.

are submitted. The reports shall contain the information listed in Part II.G.2.

- I. Inspection and Entry. The permittee shall allow the Director, 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; or
  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.
- 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 (Part I) shall be submitted no later than 10 days following each schedule date.

## III. 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. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions.
1. Civil and Administrative Penalties. Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil or administrative penalty, not to exceed the maximum amounts authorized by sections 309(d) and 309(g) 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).
  2. Criminal Penalties:
    - a. Negligent Violations. Any person who negligently violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act; or negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act; shall, upon conviction, be punished by a fine and/or imprisonment as specified in section 309(c)(1) of the Act.
    - b. Knowing Violations. Any person who knowingly violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act; or knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under Section 402 of this Act; shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the Act.
    - c. Knowing Endangerment. Any person who knowingly violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 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 and/or imprisonment as specified in section 309(c)(3) of the Act.

- d. False Statements. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine and/or imprisonment as specified in section 309(c)(4) of the Act.

Except as provided in permit conditions in Part III.G., Bypass of Treatment Facilities and Part III.H., Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall 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 a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.
- G. Bypass of Treatment Facilities:
  1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which 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 section.
  2. Notice:

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the date of the bypass.
  - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of bypass.
- a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
    - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (2) 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 which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (3) The permittee submitted notices as required under paragraph 2 of this section.
  - b. The Director 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 section.

H. 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 requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for 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. A permittee who wishes to establish the affirmative defense of upset shall 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 II.G., Twenty-four Hour Notice of Noncompliance Reporting; and
  - d. The permittee complied with any remedial measures required under Part III.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.
- I. Toxic Pollutants. The permittee shall 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.

## IV. GENERAL REQUIREMENTS

- A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:
1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will 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 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 the Director in accordance with 40 CFR 122.44(f).
  2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will 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 the Director in accordance with 40 CFR 122.44(f).
- B. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
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 which are subject neither to effluent limitations in the permit, nor to notification requirements under Part IV.A.1.

- C. Anticipated Noncompliance. The permittee shall also give advance notice of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- D. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- E. Duty to Reapply. If the permittee wishes 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. The application should be submitted at least 180 days before the expiration date of this permit.
- F. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director 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 shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- G. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- H. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
1. All permit applications shall 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, 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 the Director shall 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 and submitted to the Director.
    - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility of 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. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to the authorization. If an authorization under paragraph IV.H.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 paragraph IV.H.2. must be submitted to the Director 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 section shall 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."

- I. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. 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 to which the permittee is or may be subject under Section 311 of the Act.
- K. 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 private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstance, and the remainder of this permit, shall not be affected thereby.
- M. Transfers.
  1. The Permittee may request automatic transfer of this

permit, including all responsibilities, duties, and other rights attached to it, to a new permittee, effective on the date specified in the agreement mentioned in Part IV.M.1.b. (below) if:

- a. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date; and
  - b. The notice includes a written agreement between both the existing permittee and the proposed transferee, signed by both parties, that contains the proposed date of transfer of the permit and an acknowledgment that the transferee accepts all rights, duties, responsibilities, and other liabilities attached to the permit.
2. If notification to the Director of a request for permit transfer is not received at least 30 days in advance of the proposed transfer date:
- a. Change in ownership or operational control of a facility will be processed as minor modifications of the permit as outlined by 40 CFR § 122.63(d); and
  - b. The effective date of the transfer of the permit to the transferee shall be the date of receipt by the Director of the request for transfer. In order for a transfer request to be sufficient, it must contain a written agreement signed by both parties, stating that the current permit holder agrees to transfer all rights and liabilities in the existing permit to the transferee.
3. Neither category of transfer request (Part IV.M. paragraphs 1 or 2) shall be considered if the Director notifies the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit under Part IV.D.
- N. 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.

V. OTHER CONDITIONS

- A. Reopener Clause. EPA may reopen this permit on the basis of monitoring results, other reported information, or other causes consistent with federal regulations, to modify and/or establish specific monitoring requirements, effluent limitations, or other permit conditions. In addition, at such time as the phosphorus total maximum daily load (TMDL) is modified or additional TMDLs are completed for the Snake River, this permit may be reopened to incorporate any applicable effluent limitations and conditions.

United States Environmental Protection Agency (EPA)  
Region 10  
Park Place Building, 13th Floor  
1200 Sixth Avenue, WD-134  
Seattle, Washington 98101  
(206) 553-1214

NOTICE OF A PROPOSED REISSUANCE OF A NATIONAL POLLUTANT  
DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO  
DISCHARGE TO WATERS OF THE UNITED STATES,  
and  
NOTICE OF STATE CERTIFICATION

Public Notice No.: ID-000061-2

Public Notice Issuance Date:  
Public Notice Expiration Date:

1. Applicant

McCain Foodservice, Inc. (Burley Factory)  
P.O. Box 10  
Burley, Idaho 83318  
Permit No.: ID-000061-2

The applicant is engaged in the manufacture of frozen potato products at a factory located on the Snake River at Burley, Idaho. A Fact Sheet is available.

2. Tentative Determination

The Region 10 Office of the EPA has tentatively determined to release a discharge permit to the above listed applicant.

3. State Certification

This Notice will also serve as Public Notice of the intent of the State of Idaho, Department of Health and Welfare, Division of Environmental Quality to consider certifying that the subject discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act. The NPDES permit will not be issued until the certification requirements of Section 401 have been met.

4. Public Comments

Persons wishing to comment on the tentative determinations contained in the proposed permit or wishing to request that a public hearing be held, may do so in writing, within 30 days of the date of this public notice. A request for a public hearing shall state the nature of the issues to be raised as well as the requester's name, address and

telephone number. Comments must be received within this 30 day period to be considered in the formulation of final determinations regarding the application. All comments should include the name, address and telephone number of the commenter and a concise statement of the exact basis of any comment and the relevant facts upon which it is based.

All written and requests should be submitted to EPA at the above address to the attention of the Director, Water Division.

Persons wishing to comment on State Certification should submit written comments within this 30 day period to the Administrator, State of Idaho, Department of Health and Welfare, Division of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706.

5. Administrative Record

The proposed NPDES permit and other related documents are on file and may be inspected at the above address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to the EPA at the above address to the attention of the Water Permits Section, or by calling (206) 553-1214. This material is also available from the EPA Idaho Operations Office, 422 West Washington Street, Boise, Idaho 83702.

FACT SHEET

United States Environmental Protection Agency (EPA)  
Region 10  
Park Place Building, 13th Floor  
1200 Sixth Avenue, WD-134  
Seattle, Washington 98101  
(206) 553-1214

Date:

Permit No.: ID-000061-2

PROPOSED REISSUANCE OF A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE POLLUTANTS PURSUANT TO THE PROVISIONS OF THE CLEAN WATER ACT (CWA).

McCain Foodservice, Inc.  
(Burley Factory)

has applied for reissuance of a NPDES permit to discharge pollutants pursuant to the provisions of the CWA. This Fact Sheet includes (a) the tentative determination of the EPA to reissue the permit, (b) information on public comment, public hearing and appeal procedures, (c) the description of the current discharge, (d) a listing of tentative effluent limitations, schedules of compliance and other conditions, and (e) a sketch or detailed description of the discharge location. We call your special attention to the technical material presented in the latter part of this document.

Persons wishing to comment on the tentative determination contained in the proposed permit reissuance may do so by the expiration date of the Public Notice. All written comments should be submitted to EPA as described in the Public Comments Section of the attached Public Notice.

After the expiration date of the Public Notice, the Director, Water Division, will make final determinations with respect to the permit reissuance. The tentative determinations contained in the draft permit will become final conditions if no substantive comments are received during the public notice period.

The permit will become effective 30 days after the final determinations are made, unless a request for an evidentiary hearing is submitted within 30 days after receipt of the final determinations.

The proposed NPDES permit and other related documents are on file and may be inspected at the above address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to EPA at the above address to the attention of the Water Permits Section, or by calling (206) 553-1214. This material is also available from the EPA Idaho Operations Office, 422 West Washington Street, Boise, Idaho 83702.