

1 Pollution Control Agency

2

3 Adopted Rules Relating to National Discharge Elimination System
4 Permits

5

6 Rules as Adopted

7 6 MCAR S 4.4101 Scope and construction of rules.

8 Rules 6 MCAR SS 4.4101-4.4111 govern the application
9 procedures, the issuance, and the conditions of a National
10 Pollutant Discharge Elimination System permit. Rules 6 MCAR SS
11 4.3001-4.3011, 4.4001-4.4021, and 4.4101-4.111 shall be
12 construed to complement each other.

13 6 MCAR S 4.4102 Satisfaction of requirement for two permits.

14 If a person who discharges a pollutant into the waters of
15 the state is required by Minnesota Statutes or rules to obtain
16 both a National Pollutant Discharge Elimination System permit
17 and a state disposal system permit, the issuance of a National
18 Pollutant Discharge Elimination System permit under these rules
19 shall satisfy the requirement to obtain both permits.

20 6 MCAR S 4.4103 Definitions.

21 A. Scope. The definitions in Minnesota Statutes, section
22 115.01 and in 6 MCAR S 4.4001 apply to the terms used in 6 MCAR
23 SS 4.4101-4.4111 unless the terms are defined in this rule.

24 As used in 6 MCAR SS 4.4101-4.4111, the terms in B.-EE.
25 have the meanings given them.

26 B. Average monthly discharge limitation. "Average monthly
27 discharge limitation" means the highest allowable average of
28 daily discharge over a calendar month, calculated as the sum of
29 all daily discharges measured during a calendar month, divided
30 by the number of daily discharges during that month.

31 C. Average weekly discharge limitation. "Average weekly
32 discharge limitation" means the highest allowable average of
33 daily discharges over a calendar week, calculated as the sum of
34 all daily discharges measured during a calendar week, divided by
35 the number of daily discharges measured during that week.

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1 D. Best available technology. "Best available technology"
2 means the application to a treatment facility of the best
3 available technology economically achievable as required by
4 Section 301(b)(2) of the Clean Water Act, United States Code,
5 title 33, section 1311(b)(2) as amended.

6 E. Best management practices. "Best management practices"
7 means practices to prevent or reduce the pollution of the waters
8 of the state, including schedules of activities, prohibitions of
9 practices, and other management practice, and also includes
10 treatment requirements, operating procedures and practices to
11 control plant site runoff, spillage or leaks, sludge, or waste
12 disposal or drainage from raw material storage.

13 F. Bypass. "Bypass" means the intentional diversion of
14 waste streams from any portion of a treatment facility.

15 G. Clean Water Act. "Clean Water Act" means the Federal
16 Water Pollution Control Act as amended, commonly referred to as
17 the Clean Water Act, United States Code, title 33, sections 1251
18 et seq.

19 H. Commencement of construction. "Commencement of
20 construction" means:

21 1. to begin or cause to begin as a part of a continuous
22 program the placement, assembly, or installation of facilities
23 or equipment; or to conduct significant site preparation work,
24 including clearing, excavation, or removal of existing
25 buildings, structures, or facilities, which site preparation is
26 necessary for the placement, assembly, or installation of
27 facilities or equipment; or

28 2. to enter into a binding contractual obligation for the
29 purchase of facilities or equipment which are intended to be
30 used within a reasonable time in the operation of a new source.
31 For the purpose of these rules, "binding contractual obligation"
32 does not include an option to purchase or a contract which
33 option or contract can be terminated without substantial
34 financial loss, and does not include contracts for feasibility,
35 engineering, or design studies.

36 I. Continuous discharge. "Continuous discharge" means a

1 discharge of a pollutant that occurs throughout the operating
2 hours of a facility without interruption, except for occasional
3 shutdowns for maintenance, process changes, or similar
4 activities.

5 J. Daily discharge. "Daily discharge" means the discharge
6 of a pollutant measured during a calendar day or any 24-hour
7 period that reasonably represents the discharge during the
8 calendar day for the purposes of sampling.

9 K. Direct discharge. "Direct discharge" means the
10 "discharge of a pollutant."

11 L. Discharge of a pollutant. "Discharge of a pollutant"
12 means the addition of any pollutant to surface waters of the
13 state. "Discharge of a pollutant" does not include the addition
14 of pollutants into the waters of the state by an "indirect
15 discharger."

16 M. Effluent limitation. "Effluent limitation" means a
17 restriction established by rule or permit condition on
18 quantities, discharge rates, and concentrations of pollutants
19 that are discharged from point sources into waters of the state.

20 N. Effluent limitation guideline. "Effluent limitation
21 guideline" means a regulation adopted by the Environmental
22 Protection Agency under Section 304(b) of the Clean Water Act,
23 United States Code, title 33, section 1314(b), which provides
24 for the establishment of effluent limitations.

25 O. Indirect discharger. "Indirect discharger" means a
26 nondomestic discharger that introduces pollutants into a
27 publicly owned treatment works.

28 P. Facilities, equipment. "Facilities" or "equipment" means
29 buildings, structures, process or production equipment, or
30 machinery that form a permanent part of a source and that will
31 be used in the operation of the source such that the
32 construction of these facilities or the installation of this
33 equipment must represent a substantial commitment to the
34 construction of the source. These terms do not include
35 facilities or equipment used in connection with feasibility,
36 engineering, and design studies.

1 Q. Maximum daily discharge. "Maximum daily discharge" means
2 the highest allowable daily discharge.

3 R. Municipality. "Municipality" means a county; a city; a
4 town; the metropolitan waste control commission established in
5 Minnesota Statutes, chapter 473; the metropolitan council when
6 acting under the provisions of Minnesota Statutes, chapter 473;
7 or other governmental subdivision of the state responsible by
8 law for the prevention, control, and abatement of water
9 pollution in the state.

10 S. National Pollutant Discharge Elimination System.
11 "National Pollutant Discharge Elimination System" means the
12 national program for issuing, modifying, revoking and reissuing,
13 terminating, monitoring, and enforcing permits, and imposing and
14 enforcing pretreatment requirements under Sections 307, 318,
15 402, and 405 of the Clean Water Act, United States Code, title
16 33, sections 1317, 1328, 1342, and 1345.

17 T. New discharger. "New discharger" means a building,
18 structure, facility, or installation, including an indirect
19 discharger which commences to discharge a pollutant and:

20 1. from which there is or may be a new or additional
21 discharge of pollutants at a site at which on October 18, 1972,
22 it had never before discharged pollutants;

23 2. which has not received a finally effective National
24 Pollutant Discharge Elimination System permit for discharges at
25 that site; and

26 3. which is not a new source as defined in U.

27 U. New source. "New source" means a source that is
28 constructed on a site at which no other source is located, or
29 that totally replaces an existing source, or construction of
30 which results in a change in the nature or quantity of
31 pollutants discharged, if construction of it commenced:

32 1. after the Environmental Protection Agency promulgated
33 standards of performance under Section 306 of the Clean Water
34 Act, United States Code, title 33, section 1316, that are
35 applicable to the source;

36 2. after the Environmental Protection Agency has proposed

1 standards of performance under Section 306 of the Clean Water
2 Act, United States Code, title 33, section 1316, that are
3 applicable to the source, but only if the standards are
4 promulgated within 120 days of their proposal.

5 V. Noncontact cooling water. "Noncontact cooling water"
6 means water used to reduce temperature which does not come into
7 contact with a raw material, intermediate product, waste product
8 other than heat, or finished product. "Noncontact cooling water"
9 includes water used in air conditioning equipment.

10 W. Point source. "Point source" means a discernible,
11 confined, and discrete conveyance, including, but not limited
12 to, a pipe, ditch, channel, tunnel, conduit, well, discrete
13 fissure, container, rolling stock, concentrated animal feeding
14 operation, or vessel or other floating craft, from which
15 pollutants are or may be discharged.

16 X. Pollutant. "Pollutant" has the meaning given to it by
17 Minnesota Statutes, section 115.01, subdivision 13.

18 Y. Primary industry category. "Primary industry category"
19 means any of the following industry categories:

- 20 1. adhesives and sealants;
- 21 2. aluminum;
- 22 3. auto and other laundries;
- 23 4. battery manufacturing;
- 24 5. coal mining;
- 25 6. coil coating;
- 26 7. copper forming;
- 27 8. electrical and electronic components;
- 28 9. electroplating;
- 29 10. explosives manufacturing;
- 30 11. foundries;
- 31 12. gum and wood chemicals;
- 32 13. inorganic chemicals manufacturing;
- 33 14. iron and steel manufacturing;
- 34 15. leather tanning and finishing;
- 35 16. mechanical products manufacturing;
- 36 17. nonferrous metals manufacturing;

- 1 18. ore mining;
- 2 19. organic chemicals manufacturing;
- 3 20. paint and ink formulation;
- 4 21. pesticides;
- 5 22. petroleum refining;
- 6 23. pharmaceutical preparations;
- 7 24. photographic equipment and supplies;
- 8 25. plastics processing;
- 9 26. plastic and synthetic materials manufacturing;
- 10 27. porcelain enameling;
- 11 28. printing and publishing;
- 12 29. pulp and paper mills;
- 13 30. rubber processing;
- 14 31. soap and detergent manufacturing;
- 15 32. steam electric power plants;
- 16 33. textile mills; and
- 17 34. timber products processing.

18 Z. Process wastewater. "Process wastewater" means any water
19 which, during manufacturing or processing, comes into direct
20 contact with or results from the production or use of a raw
21 material, intermediate product, finished product, byproduct, or
22 waste product.

23 AA. Publicly owned treatment works. "Publicly owned
24 treatment works" means a device or system used in the treatment,
25 recycling, or reclamation of municipal sewage or industrial
26 wastes of a liquid nature which is owned by the state or a
27 municipality. This term includes sewers, pipes, or other
28 conveyances only if they convey wastewater to a publicly owned
29 treatment works for treatment.

30 BB. Source. "Source" means a building structure, facility,
31 or installation from which there is or may be a discharge of
32 pollutants.

33 CC. Technology-based effluent limitation, standard, or
34 prohibition. "Technology-based effluent limitation, standard,
35 or prohibition" means an effluent limitation, standard, or
36 prohibition promulgated by the Environmental Protection Agency

1 at Code of Federal Regulations, title 40, parts 400-460, under
2 Sections 301 and 306 of the Clean Water Act, United States Code,
3 title 33, sections 1311 and 1316.

4 DD. Toxic pollutant. "Toxic pollutant" means a pollutant
5 listed as toxic under Section 307(a)(1) of the Clean Water Act,
6 United States Code, title 33, section 1317(b)(1), or as defined
7 by Minnesota Statutes, section 115.01, subdivision 14.

8 EE. Vessel. "Vessel" means a watercraft or other artificial
9 contrivance used, or capable of being used, as a means of
10 transportation on the navigable waters of the state.

11 6 MCAR S 4.4104 Permit requirement and exemptions.

12 A. Permit required. Except as provided in B., no person may
13 discharge a pollutant from a point source into the waters of the
14 state without obtaining a National Pollutant Discharge
15 Elimination System permit from the agency.

16 B. Exemptions. The following persons are not required to
17 obtain a National Pollutant Discharge Elimination System permit:

18 1. persons who discharge sewage or effluent from a vessel;

19 2. persons discharging dredge or fill materials regulated
20 by the federal government under Section 404 of the Clean Water
21 Act, United States Code, title 33, section 1344;

22 3. persons discharging pollutants to a publicly owned
23 treatment works;

24 4. persons discharging pollutants who are in compliance
25 with the instructions of an on-scene coordinator in accordance
26 with Code of Federal Regulations, title 40, section 1510;

27 5. persons introducing pollutants from nonpoint source
28 agricultural and silvicultural sources into privately owned
29 treatment works;

30 6. persons causing return flows from irrigated
31 agriculture;

32 7. persons discharging pollutants into privately owned
33 treatment works;

34 8. persons injecting water, gas, or other material into a
35 well to facilitate the production of oil or gas; and

36 9. persons disposing of water in a well if this water is

1 associated with oil and gas production.

2 6 MCAR S 4.4105 Application deadline for new permits.

3 If a person proposes to construct a new facility or engage
4 in a new activity for which a permit is required, the person
5 shall submit a written permit application at least 180 days
6 before the planned date of the commencement of facility
7 construction or of the planned date of the commencement of the
8 activity, whichever occurs first.

9 6 MCAR S 4.4106 Contents of NPDES permit application.

10 A. Publicly owned treatment works. If the applicant is
11 requesting the issuance, modification, revocation and
12 reissuance, or reissuance of a National Pollutant Discharge
13 Elimination System permit for a publicly owned treatment works,
14 the applicant shall submit the following information to the
15 director:

- 16 1. the information required by 6 MCAR S 4.4005;
- 17 2. an identification, in terms of character and volume of
18 pollutants, of all significant indirect dischargers into the
19 publicly owned treatment works, which indirect dischargers are
20 subject to pretreatment standards under Section 307(b) of the
21 Clean Water Act, United States Code, title 33, section 1317(b),
22 and under Code of Federal Regulations, title 40, part 403; and
23 3. a copy of any publicly owned treatment works
24 pretreatment program prepared by the applicant under Code of
25 Federal Regulations, title 40, section 403.8, unless the program
26 has been previously submitted to the director and there have
27 been no changes to the plan.

28 B. Manufacturing, commercial, mining, and silvicultural
29 discharges. If the applicant is requesting the issuance,
30 modification, revocation and reissuance, or reissuance of a
31 National Pollutant Discharge Elimination System permit for a
32 manufacturing, commercial, mining, or silvicultural discharge,
33 the applicant shall submit the following information to the
34 director:

- 35 1. The information required by 6 MCAR S 4.4005.

- 1 2. The name of the receiving water of the discharge.
- 2 3. The exact location of the outfall, including the
- 3 latitude and longitude of the location to the nearest 15 seconds.
- 4 4. A line drawing of the water flow through the facility
- 5 with a water balance, showing process and treatment operations
- 6 contributing to the effluent. The water balance must show
- 7 approximate average flows at intake and discharge points and
- 8 between units, including treatment units. If a water balance
- 9 cannot be determined, the applicant shall provide a pictorial
- 10 description of the nature and amount of the sources of water and
- 11 the collection and treatment measures.
- 12 5. A narrative identification of each type of process,
- 13 operation, or production area which contributes or will
- 14 contribute wastewater to the effluent for each outfall. This
- 15 identification must include process wastewater, cooling water,
- 16 and storm water runoff contributions to each outfall; the
- 17 average flow that each process contributes; a description of the
- 18 treatment the wastewater receives; a discussion of any disposal,
- 19 other than by discharge, of solid or fluid wastes generated in
- 20 the process; and the discharge frequency.
- 21 6. A statement as to the product that is or will be
- 22 manufactured, processed, or produced at the facility and a
- 23 statement as to the quantity of the product actually
- 24 manufactured, processed, or produced at the facility. If a
- 25 technology-based effluent guideline is applicable to the
- 26 discharge, the applicant shall express the quantity of product
- 27 in the same measure as that used in the applicable effluent
- 28 limitation guideline.
- 29 7. If the applicant is subject to a requirement or
- 30 compliance schedule for construction, upgrading, or operation of
- 31 waste treatment equipment, an identification of the requirement,
- 32 a description of the project, and a listing of the required and
- 33 projected final compliance dates.
- 34 8. The results of analyses and other information required
- 35 by 6 MCAR S 4.4107;
- 36 9. If the analyses required by 6 MCAR S 4.4107 were

1 performed by a contract laboratory or consulting firm, the name
2 and address of the laboratory or firm, and an identification as
3 to which analyses were performed by the laboratory or firm.

4 10. A list of any toxic pollutants that the applicant
5 uses or manufactures or expects that it will use or manufacture
6 during the next five years, including manufacturing as an
7 intermediate or final product or byproduct.

8 11. A description of the expected levels of and the
9 reasons for any discharge of pollutants that the applicant knows
10 or has reason to believe will in the next five years exceed two
11 times the values reported under 6 MCAR S 4.4107.

12 12. An identification of biological toxicity tests that
13 the applicant knows or has reason to believe have been made
14 within the last three years on any of the applicant's discharges
15 or on a receiving water related to the applicant's discharge.

16 13. If the applicant proposes to construct or operate a
17 new or existing concentrated animal feeding operation or aquatic
18 animal production facility, the information required in Code of
19 Federal Regulations, title 40, section 122.21(h).

20 14. If the applicant wishes to request that the director,
21 in establishing a technology-based effluent limitation to be
22 included in the conditions of the permit, establish an effluent
23 limitation which is different than the effluent limitation which
24 would result from the normal application of the relevant
25 effluent limitation guideline, then the applicant shall submit,
26 either in the application or in a supplement to the application
27 filed no later than the last day of the comment period
28 established in 6 MCAR S 4.4010 D., the following information:

29 a. An identification of the relevant effluent
30 limitation guideline and the effluent limitation requested by
31 the applicant.

32 b. If the request is based on the claim that there are
33 factors to be considered which are fundamentally different from
34 the factors on which the Environmental Protection Agency based
35 the applicable effluent limitation guideline, the applicant
36 shall submit an explanation and documentation supporting this

1 claim.

2 c. If the request is based on the claim that there is
3 no reasonable relationship between the economic and social costs
4 and the benefits to be obtained from the effluent limitation
5 which would result from the normal application of the effluent
6 limitation guideline, the applicant shall submit an explanation
7 and documentation of this claim.

8 d. If the applicant's discharge contains a pollutant
9 subject to the best available technology requirements of Section
10 301(b)(2)(F) of the Clean Water Act, United States Code, title
11 33, section 1311(b)(2)(F), and if the applicant's request is
12 based on the claim that the technology being requested
13 represents the maximum use of technology within the economic
14 capability of the owner or operator and will result in
15 reasonable further progress toward the elimination of the
16 discharge of pollutants, the applicant shall submit an
17 explanation and documentation supporting this claim. The
18 applicant's right to make this request expires 270 days after
19 the promulgation by the Environmental Protection Agency of an
20 effluent limitation guideline that pertains to the pollutant
21 discharged by the applicant that is subject to the best
22 available technology requirement, or at the close of the public
23 comment period established under 6 MCAR S 4.4010 D., whichever
24 is earlier.

25 e. If the applicant's discharge contains a pollutant
26 that is subject to the best available technology requirements of
27 Section 301(b)(2)(F) of the Clean Water Act, United States Code,
28 title 33, section 1311(b)(2)(F), and if the applicant's request
29 is based on the claim that the requested effluent limitation
30 will meet the standards in Section 301(g) of the Clean Water
31 Act, United States Code, title 33, section 1311(g), the
32 applicant shall submit an explanation and documentation
33 supporting this claim. The applicant's right to make this
34 request expires 270 days after the promulgation by the
35 Environmental Protection Agency of an effluent limitation
36 guideline that pertains to the pollutant discharged by the

1 applicant that is subject to the best available technology
2 requirement, or at the close of the public comment period
3 established under 6 MCAR S 4.4010 D., whichever is earlier.

4 15. If the applicant desires to request an extension from
5 the statutory deadline established in Section 301(b)(2)(A) of
6 the Clean Water Act, United States Code, title 33, section
7 1311(b)(2)(A), on the grounds that the applicant proposes to
8 replace existing production capacity with an innovative
9 production process which will meet the standards in Section
10 301(k) of the Clean Water Act, United States Code, title 33,
11 section 1311(k), the applicant shall submit an explanation and
12 documentation supporting this claim.

13 6 MCAR S 4.4107 Effluent analysis by existing manufacturing,
14 commercial, mining, and silvicultural dischargers.

15 A. Requirement. If the applicant is an existing
16 manufacturing, commercial, mining, or silvicultural discharger,
17 the applicant shall perform an analysis of a sample of its
18 effluent from each of its outfalls, except that if the director
19 finds that two or more of such outfalls have substantially
20 identical effluents, the director shall allow the applicant to
21 analyze a sample from one of the identical effluents. The
22 applicant shall perform the analyses according to B.-J.

23 B. Methods of sampling and analysis. The sampling method
24 for pH, temperature, cyanide, total phenols, residual chlorine,
25 oil and grease, and fecal coliform must be the grab sampling
26 method. For all other pollutants the applicant shall use
27 24-hour composite samples unless otherwise approved by the
28 director. The applicant shall perform the analysis by using the
29 appropriate analytical techniques in Code of Federal
30 Regulations, title 40, part 136, or by using techniques found by
31 the director to be appropriate considering the circumstances and
32 the parameters which are to be analyzed.

33 C. Parameters. The applicant shall analyze for the
34 following parameters:

35 1. Unless the director grants a written exemption to the
36 applicant after making a finding that a given pollutant is not

1 likely to be present in the effluent, the applicant shall
 2 analyze for biochemical oxygen demand, chemical oxygen demand,
 3 total organic carbon, total suspended solids, ammonia (as N),
 4 temperature (both winter and summer), and pH.

5 2. Except as provided in 6., an applicant who has
 6 processes in one or more of the primary industry categories
 7 shall:

8 a. analyze, using the specified Gas Chromatograph/Mass
 9 Spectrometer (GC/MS) analysis for the organic toxic pollutants
 10 listed in D.-G. for the applicable industry category indicated
 11 in Exhibit 6 MCAR S 4.4107-1.; and

12 b. analyze for the pollutants listed in H.-I.

13 3. Except as provided in 6., an applicant who has
 14 processes not included in one of the primary industry categories
 15 and who has reason to believe that the pollutants listed in
 16 D.-I. may be present in the effluent shall identify these
 17 pollutants and shall analyze for these pollutants except those
 18 that are present in the effluent solely as the result of their
 19 presence in the intake water.

20 4. The applicant shall identify each pollutant listed in
 21 J. which the applicant knows or has reason to believe is present
 22 in the effluent and shall state the reason why the applicant
 23 knows or has reason to believe that the pollutant is present.
 24 The applicant shall analyze for each identified pollutant except
 25 those that are present in the effluent solely as the result of
 26 their presence in the intake water.

27 5. The applicant shall analyze, using a screening
 28 procedure not calibrated with analytical standards, for 2,3,7,
 29 8-tetrachlorodibenzo-p-dioxin if:

30 a. the applicant uses or manufactures 2,4,
 31 5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,
 32 5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP);
 33 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate
 34 (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl)
 35 phosphorothioate phosphorothioate (Ronnel); 2,4,
 36 5-trichlorophenol (TCP); or hexachlorophene (HCP); or

1 b. the applicant knows or has reason to believe that
2 2,3,7,8-tetrachlorodibenzo-p-dioxin is or may be present in an
3 effluent.

4 6. An applicant is exempt from the requirements of 2. and
5 3. to analyze for the pollutants listed in D.-G. if the facility
6 which is the subject of the application has gross total annual
7 sales averaging less than \$100,000 per year (in second quarter
8 1980 dollars) for the three-year period prior to submittal of
9 the application.

10 D. Volatile substances. The following volatile substances
11 must be analyzed under C.2. and 3.:

- 12 1. acrolein;
- 13 2. acrylonitrile;
- 14 3. benzene;
- 15 4. bis(chloromethyl)ether;
- 16 5. bromoform;
- 17 6. carbon tetrachloride;
- 18 7. chlorobenzene;
- 19 8. chlorodibromomethane;
- 20 9. chloroethane;
- 21 10. 2-chloroethylvinyl ether;
- 22 11. chloroform;
- 23 12. dichlorobromomethane;
- 24 13. dichlorodifluoromethane;
- 25 14. 1,1-dichloroethane;
- 26 15. 1,2-dichloroethane;
- 27 16. 1,1-dichlorethylene;
- 28 17. 1,2-dichloropropane;
- 29 18. 1,2-dichloropropylene;
- 30 19. ethylbenzene;
- 31 20. methyl bromide;
- 32 21. methyl chloride;
- 33 22. methylene chloride;
- 34 23. 1,1,2,2-tetrachloroethane;
- 35 24. tetrachloroethylene;
- 36 25. toluene;

- 1 26. 1,2-trans-dichloroethylene;
- 2 27. 1,1,1-trichloroethane;
- 3 28. 1,1,2-trichloroethane;
- 4 29. trichloroethylene;
- 5 30. trichlorofluoromethane; and
- 6 31. vinyl chloride.

7 E. Acid compounds. The following acid compounds must be
8 analyzed under C.2. and 3.:

- 9 1. 2-chlorophenol;
- 10 2. 2,4-dichlorophenol;
- 11 3. 2,4-dimethylphenol;
- 12 4. 4,6-dinitro-o-cresol;
- 13 5. 2,4-dinitrophenol;
- 14 6. 2-nitrophenol;
- 15 7. 4-nitrophenol;
- 16 8. p-chloro-m-cresol;
- 17 9. pentachlorophenol;
- 18 10. phenol; and
- 19 11. 2,4,6-trichlorophenol.

20 F. Base/neutral substances. The following base/neutral
21 substances must be analyzed under C.2. and 3.:

- 22 1. acenaphthene;
- 23 2. acenaphthylene;
- 24 3. anthracene;
- 25 4. benzidine;
- 26 5. benzo(a)anthracene;
- 27 6. benzo(a)pyrene;
- 28 7. 3,4-benzofluoranthene;
- 29 8. benzo(ghi)perylene;
- 30 9. benzo(k)fluoroanthene;
- 31 10. bis(2-chloroethoxy)methane;
- 32 11. bis(2-chloroethyl)ether;
- 33 12. bis(2-chloroisopropyl)ether;
- 34 13. bis(2-ethylhexyl)phthalate;
- 35 14. 4-bromophenyl phenyl ether;
- 36 15. butylbenzyl phthalate;

- 1 16. 2-chloronaphthalene;
- 2 17. 4-chlorophenyl phenyl ether;
- 3 18. chrysene;
- 4 19. dibenzo(a,h)anthracene;
- 5 20. 1,2-dichlorobenzene;
- 6 21. 1,3-dichlorobenzene;
- 7 22. 1,4-dichlorobenzene;
- 8 23. 3,3'-dichlorobenzidine;
- 9 24. diethyl phthalate;
- 10 25. dimethyl phthalate;
- 11 26. di-n-butyl phthalate;
- 12 27. 2,4-dinitrotoluene;
- 13 28. 2,6-dinitrotoluene;
- 14 29. di-n-octyl phthalate;
- 15 30. 1,2-diphenylhydrazine (as azobenzene);
- 16 31. fluoranthene;
- 17 32. fluorene;
- 18 33. hexachlorobenzene;
- 19 34. hexachlorobutadiene;
- 20 35. hexachlorocyclopentadiene;
- 21 36. hexachloroethane;
- 22 37. indeno(1,2,3-cd)pyrene;
- 23 38. isophorone;
- 24 39. naphthalene;
- 25 40. nitrobenzene;
- 26 41. N-nitrosodimethylamine;
- 27 42. N-nitrosodi-n-propylamine;
- 28 43. N-nitrosodiphenylamine;
- 29 44. phenanthrene;
- 30 45. pyrene; and
- 31 46. 1,2,4-trichlorobenzene.

32 G. Pesticides. The following pesticides must be analyzed
33 under C.2. and 3.:

- 34 1. aldrin;
- 35 2. α -BHC;
- 36 3. β -BHC;

- 1 4. γ -BHC;
- 2 5. δ -BHC;
- 3 6. chlordane;
- 4 7. 4,4'-DDT;
- 5 8. 4,4'-DDD;
- 6 9. 4,4'-DDE;
- 7 10. dieldrin;
- 8 11. α -endosulfan;
- 9 12. β -endosulfan;
- 10 13. endosulfan sulfate;
- 11 14. endrin;
- 12 15. endrin aldehyde;
- 13 16. heptachlor;
- 14 17. heptachlor epoxide;
- 15 18. PCB-1242;
- 16 19. PCB-1254;
- 17 20. PCB-1221;
- 18 21. PCB-1232;
- 19 22. PCB-1248;
- 20 23. PCB-1260;
- 21 24. PCB-1016; and
- 22 25. toxaphene.

23 H. Metals, cyanides, and phenols. The following metals,
24 cyanide, and phenols must be analyzed for quantity present under
25 C.2. and 3.:

- 26 1. antimony;
- 27 2. arsenic;
- 28 3. beryllium;
- 29 4. cadmium;
- 30 5. chromium;
- 31 6. copper;
- 32 7. lead;
- 33 8. mercury;
- 34 9. nickel;
- 35 10. selenium;
- 36 11. silver;

- 1 12. thallium;
- 2 13. zinc;
- 3 14. total cyanide; and
- 4 15. total phenols.

5 I. Conventional and nonconventional pollutants. The
6 following conventional and nonconventional pollutants must be
7 analyzed under C.2. and 3.:

- 8 1. aluminum;
- 9 2. barium;
- 10 3. boron;
- 11 4. bromide;
- 12 5. total residual chlorine;
- 13 6. cobalt;
- 14 7. color;
- 15 8. fecal coliform;
- 16 9. fluoride;
- 17 10. iron;
- 18 11. magnesium;
- 19 12. manganese;
- 20 13. molybdenum;
- 21 14. nitrate-nitrite;
- 22 15. total organic nitrogen;
- 23 16. oil and grease;
- 24 17. total phosphorous;
- 25 18. radioactivity;
- 26 19. sulfate;
- 27 20. sulfide;
- 28 21. sulfite;
- 29 22. surfactants;
- 30 23. total tin; and
- 31 24. total titanium.

32 J. Toxic pollutants and hazardous substances. The following
33 toxic pollutants and hazardous substances must be analyzed under
34 C.4.:

- 35 1. asbestos;
- 36 2. acetaldehyde;

- 1 3. allyl alcohol;
- 2 4. allyl chloride;
- 3 5. amyl acetate;
- 4 6. aniline;
- 5 7. benzonitrile;
- 6 8. benzyl chloride;
- 7 9. butyl acetate;
- 8 10. butylamine;
- 9 11. captan;
- 10 12. carbaryl;
- 11 13. carbofuran;
- 12 14. carbon disulfide;
- 13 15. chlorpyrifos;
- 14 16. coumaphos;
- 15 17. cresol;
- 16 18. crotonaldehyde;
- 17 19. cyclohexane;
- 18 20. 2,4-D (2,4-dichlorophenoxy acetic acid)
- 19 21. diazinon;
- 20 22. dicamba;
- 21 23. dichlobenil;
- 22 24. dichlone;
- 23 25. 2,2-dichloropropionic acid;
- 24 26. dichlorvos;
- 25 27. diethyl amine;
- 26 28. dimethyl amine;
- 27 29. dinitrobenzene;
- 28 30. diquat;
- 29 31. disulfoton;
- 30 32. diuron;
- 31 33. epichlorohydrin;
- 32 34. ethanolamine;
- 33 35. ethion;
- 34 36. ethylene diamine;
- 35 37. ethylene dibromide;
- 36 38. formaldehyde;

- 1 39. furfural;
- 2 40. guthion;
- 3 41. isoprene;
- 4 42. isopropanolamine;
- 5 43. kelthane;
- 6 44. kepone;
- 7 45. malathion;
- 8 46. mercaptodimethur;
- 9 47. methoxychlor;
- 10 48. methyl mercaptan;
- 11 49. methyl methacrylate;
- 12 50. methyl parathion;
- 13 51. mevinphos;
- 14 52. mexacarbate;
- 15 53. monoethyl amine;
- 16 54. monomethyl amine;
- 17 55. naled;
- 18 56. naphthenic acid;
- 19 57. nitrotoluene;
- 20 58. parathion;
- 21 59. phenolsulfanate;
- 22 60. phosgene;
- 23 61. propargite;
- 24 62. propylene oxide;
- 25 63. pyrethrins;
- 26 64. quinoline;
- 27 65. resorcinol;
- 28 66. strontium;
- 29 67. strychnine;
- 30 68. styrene;
- 31 69. 2,4,5-T (2,4,5-trichlorophenoxy acetic acid);
- 32 70. TDE (tetrachlorodiphenylethane);
- 33 71. 2,4,5-TP [2-(2,4,5-trichlorophenoxy) propanoic acid];
- 34 72. trichlorofon;
- 35 73. triethylamine;
- 36 74. trimethylamine;

- 1 75. uranium;
- 2 76. vanadium;
- 3 77. vinyl acetate;
- 4 78. xylene;
- 5 79. xylenol; and
- 6 80. zirconium.

1 Exhibit 6 MCAR S 4.4107-1.

2 Testing Requirements for Organic Toxic Pollutants by

3 Industrial Category for Existing Dischargers

4 GC/MS fraction¹

5 Industrial Category

6			Base/	
7	Volatile	Acid	neutral	Pesticide
8	Adhesives and Sealants	*	*	...
9	Aluminum Forming	*	*	...
10	Auto and Other Laundries	*	*	*
11	Battery Manufacturing	*
12	Coal Mining	*	*	*
13	Coil Coating	*	*	...
14	Copper Forming	*	*	...
15	Electric and Electronic			
16	Components	*	*	*
17	Electroplating	*	*	...
18	Explosives			
19	Manufacturing	...	*	*
20	Foundries	*	*	...
21	Gum and Wood Chemicals	*	*	*
22	Inorganic Chemicals			
23	Manufacturing	*	*	...
24	Iron and Steel			
25	Manufacturing	*	*	...
26	Leather Tanning and			
27	Finishing	*	*	*
28	Mechanical Products			
29	Manufacturing	*	*	...
30	Nonferrous Metals			
31	Manufacturing	*	*	*
32	Ore Mining**	...	*	...
33	Organic Chemicals			
34	Manufacturing	*	*	*
35	Paint and Ink Formulation	*	*	*
36	Pesticides	*	*	*
37	Petroleum Refining	*	*	*
38	Pharmaceutical			
39	Preparation	*	*
40	Photographic Equipment			
41	and Supplies	*	*	*
42	Plastic and Synthetic			
43	Materials Manufacturing	*	*	*
44	Plastic Processing	*
45	Porcelain Enameling	*	...	*
46	Printing and Publishing	*	*	*
47	Pulp and Paper Mills	*	*	*
48	Rubber Processing	*	*	...
49	Soap and Detergent			
50	Manufacturing	*	*	...
51	Steam Electric Power			
52	Plants	*	*	...
53	Textile Mills	*	*	*
54	Timber Products			
55	Processing	*	*	*

56 ¹The toxic pollutants in each fraction are listed in 6 MCAR S
 57 4.4107 D.-G. * Testing required. **Applies only to base and
 58 precious metals.
 59

1 6 MCAR S 4.4108 Preliminary determination, draft permit, and
2 public comments.

3 A. Scope. The provisions of 6 MCAR SS 4.4010 and 4.4011
4 apply to the public notice of draft permits and preliminary
5 determinations and the use of fact sheets concerning draft
6 permits and public comments, except as specifically otherwise
7 provided in B. and C.

8 B. Fact sheets. The director shall prepare a fact sheet for
9 each draft permit for a facility that the director finds to be
10 major based on a review of the potential impacts of the facility
11 on the environment.

12 C. Response to public comments. The director shall respond
13 to all significant comments received under 6 MCAR S 4.4011
14 during the public comment period. The response may be made
15 either orally or in writing.

16 6 MCAR S 4.4109 Establishment of special conditions for National
17 Pollutant Discharge Elimination System permits.

18 A. Requirement. According to 6 MCAR S 4.4015 B., a National
19 Pollutant Discharge Elimination System permit issued by the
20 agency must contain conditions necessary for the permittee to
21 achieve compliance with all Minnesota or federal statutes or
22 rules. These conditions must be initially established by the
23 director in the draft permit but are subject to final issuance
24 by the agency. The conditions to be included are given in B.

25 B. Effluent limitations, standards, or prohibitions. Except
26 as provided in C., the director shall establish effluent
27 limitations, standards, or prohibitions for each pollutant to be
28 discharged from each outfall or discharge point of the permitted
29 facility; except that if the director finds that as a result of
30 exceptional circumstances it is not feasible to establish
31 effluent limitations, standards, or prohibitions which are
32 applicable at the point of discharge, the director shall
33 establish effluent limitations, standards, or prohibitions for
34 pollutants in internal waste streams at the point prior to
35 mixing with other waste streams or cooling water streams. In

1 determining the appropriate effluent limitations, standards, or
2 prohibitions the director shall comply with the following
3 requirements:

4 1. Effluent limitations, standards, or prohibitions must
5 be expressed in terms of weight or mass, where applicable, and
6 in the following terms:

7 a. for continuous discharges from a publicly owned
8 treatment works, in terms of average weekly and maximum monthly
9 discharge limitations;

10 b. for continuous discharges from a facility which is
11 not a publicly owned treatment works, in terms of maximum daily
12 and average monthly discharge limitations;

13 c. for noncontinuous discharges, in terms which most
14 appropriately limit the discharge, such as frequency, total
15 mass, concentration, or maximum rate of discharge;

16 d. for metals, in terms of total metal, which is the
17 sum of the dissolved and suspended fractions of the metal. This
18 requirement does not apply if a federal or state rule requires
19 that an effluent limitation, standard, or prohibition be
20 expressed in terms of the dissolved or valent form of the metal;
21 or if the director determines that the expression of the
22 effluent limitation, standard, or prohibition in a different
23 manner would better enable the agency to determine compliance by
24 the permittee with all applicable Minnesota or federal statutes
25 or rules.

26 2. In establishing effluent limitations, standards, or
27 prohibitions the director shall consider the following:

28 a. technology-based effluent limitations, standards,
29 or prohibitions and effluent limitation guidelines that apply to
30 the permittee;

31 b. effluent standards or limitations applicable to the
32 permittee; promulgated by the Environmental Protection Agency
33 under Sections 302, 303, 304, 307, 318, 402(a), and 405 of the
34 Clean Water Act, United States Code, title 33, sections 1312,
35 1313, 1314, 1317, 1328, 1342, and 1345 as amended; and published
36 in Code of Federal Regulations, title 40, parts 400-460, which

1 are applicable to the permittee;

2 c. the applicable water quality standards in 6 MCAR SS
3 4.8001, 4.8014, 4.8015, 4.8024, 4.8025, 4.8027, 4.8028, 4.8030,
4 4.8041, and 4.8043;

5 d. the requirements of the water quality management
6 plan adopted by the state and approved by the Environmental
7 Protection Agency under Section 208(b) of the Clean Water Act,
8 United States Code, title 33, section 1288(b) as amended; and

9 e. the requirements of the National Environmental
10 Policy Act, United States Code, title 42, sections 4321 et seq.
11 as amended, and the Minnesota Environmental Policy Act,
12 Minnesota Statutes, chapter 116D.

13 3. If the establishment of an effluent limitation,
14 standard, or prohibition requires the making of a calculation,
15 the director shall comply with the following, if applicable:

16 a. for a publicly owned treatment works, calculations
17 must be based on the design flow of the facility;

18 b. for a facility which is not a publicly owned
19 treatment works, calculations of technology-based effluent
20 limitations must be based on a reasonable measure of the actual
21 quantity of the product manufactured, processed, or produced at
22 the facility, or, for a new source or new discharger, the
23 projected measure of the quantity of product;

24 c. for a facility which is not a publicly owned
25 treatment works, calculations of effluent limitations other than
26 technology-based effluent limitations must be based on a
27 reasonably representative quantity of flow from the facility;
28 and

29 d. for a facility which disposes of any part of its
30 wastewater in a manner which does not involve a discharge of a
31 pollutant into the waters of the state, calculations of effluent
32 limitations, standards, or prohibitions expressed in terms of
33 mass must be based only upon that portion of the wastewater
34 which is discharged into the waters of the state.

35 4. If a permit issued to a new source or a new
36 discharger contains technology-based effluent limitations,

1 standards, or prohibitions for pollutants other than toxic
2 pollutants or hazardous substances, the source or discharger
3 must not be subject to more stringent technology-based
4 limitations, standards, or prohibitions for the following
5 periods of time, whichever is less:

6 a. for new sources, ten years from the date that
7 construction of the source is completed;

8 b. ten years from the date that the source begins to
9 discharge process or other nonconstruction related wastewater;
10 or

11 c. the period of depreciation or amortization of the
12 facility for the purposes of Section 167 or 169, or both, of the
13 Internal Revenue Code of 1954, United States Code, title 26.

14 C. Best management practices. If the director finds that it
15 is not feasible to establish an effluent limitation, standard,
16 or prohibition using a numerical value, the director shall
17 establish permit conditions requiring the implementation by the
18 permittee of best management practices. The director may also
19 require implementation of best management practices if the
20 director finds that this requirement is necessary to achieve
21 compliance with an effluent limitation, standard, or prohibition
22 or to comply with Minnesota or federal statutes or rules,
23 including requirements for the control of toxic pollutants and
24 hazardous substances from ancillary activities.

25 D. Reporting violations. The director shall include as a
26 condition of the permit that the permittee shall report, in
27 accordance with 6 MCAR S 4.4015 C.11., all violations of maximum
28 daily discharge limitations for certain pollutants. The
29 pollutants must be listed in the permit.

30 E. Monitoring requirements. In addition to the requirements
31 in 6 MCAR S 4.4015 B., the director shall establish appropriate
32 monitoring and reporting of monitoring requirements to ensure
33 compliance with permit limitations. These requirements must
34 include:

35 1. a specification of the appropriate measurement to be
36 reported for each pollutant limited in the permit;

- 1 2. the volume of effluent discharged from each outfall;
- 2 3. any other measurement needed to determine compliance
- 3 with a permit condition;
- 4 4. specification as to any test procedures which the
- 5 permittee is required to use which differ from those set forth
- 6 in Code of Federal Regulations, title 40, part 136; and
- 7 5. specification of the frequency of monitoring and
- 8 monitoring reporting. In no case may the frequency of
- 9 monitoring and monitoring reporting be less than once per year.

10 F. Pretreatment requirements for publicly owned treatment
11 works. If the applicant proposes to own or operate a publicly
12 owned treatment works and if the applicant is required by Code
13 of Federal Regulations, title 40, section 403.8 to develop a
14 publicly owned treatment works pretreatment program, the
15 director shall incorporate the provisions of the publicly owned
16 treatment works pretreatment program into the permit and shall
17 require the permittee to submit the information set forth in
18 Code of Federal Regulations, title 40, section 403.12.

19 G. Conditions imposed in construction grants. If the
20 applicant is using construction grant funds to construct or
21 operate its wastewater treatment facility, the director shall
22 incorporate into the permit any provisions of the grant that
23 relate to the achievement of compliance with effluent
24 limitations, standards, or prohibitions or with water quality
25 standards.

26 H. Conditions related to navigation. The director shall
27 incorporate into the permit conditions that are necessary to
28 ensure that navigation and anchorage will not be substantially
29 impaired.

30 I. Conditions in reissued permits. In a reissued permit the
31 director shall establish effluent limitations, standards, or
32 prohibitions that are at least as stringent as the effluent
33 limitations, standards, or prohibitions or conditions in the
34 previous permit unless the director makes the finding in 1.-3.
35 In no event may the director establish an effluent limitation,
36 standard, or prohibition that is less stringent than that

1 allowed by the applicable effluent limitation guideline in
2 effect at the date of the renewal or reissuance of the permit.
3 Less stringent effluent limitations, standards, prohibitions, or
4 conditions may only be established if the director finds:

5 1. the circumstances upon which the previous permit was
6 based have materially and substantially changed since the time
7 the previous permit was issued and this change would constitute
8 cause for permit modification or revocation and reissuance under
9 6 MCAR S 4.4019;

10 2. the permittee has installed the treatment facilities
11 required to meet the effluent limitations, standards, or
12 prohibitions in the previous permit and has properly operated
13 and maintained the facilities but has nevertheless been unable
14 to achieve compliance with these effluent limitations,
15 standards, or prohibitions; and that the effluent limitation
16 guideline upon which the original effluent limitation, standard,
17 or prohibition was based has been amended by the Environmental
18 Protection Agency to allow the establishment of a less stringent
19 effluent limitation, standard, or prohibition. The revised
20 effluent limitation, standard, or prohibition must not be less
21 stringent than the level of pollutant control actually achieved
22 by the permittee;

23 3. that the Environmental Protection Agency has amended
24 the effluent limitation guideline applicable to the permittee
25 and that the amended effluent guideline is based upon best
26 conventional pollutant control technology under Section
27 301(b)(2)(E) of the Clean Water Act, United States Code, title
28 33, section 1311(b)(2)(E) as amended; or

29 4. that the permittee has increased production at the
30 facility to cause a significant reduction in treatment
31 efficiency; and that the effluent limitation guideline upon
32 which the original effluent limitation, standard, or prohibition
33 was based has been amended by the Environmental Protection
34 Agency to allow the establishment of a less stringent effluent
35 limitation, standard, or prohibition.

36 6 MCAR S 4.4110 General conditions of National Pollutant

1 Discharge Elimination System permits.

2 A. Conditions for all permits. National Pollutant Discharge
3 Elimination System ~~permit~~ permits issued by the agency must
4 contain the general conditions set forth in 6 MCAR S 4.4015 and
5 the general conditions as follows:

6 1. Notwithstanding the absence in this permit of an
7 effluent limitation for any toxic pollutant, the permittee shall
8 not discharge a toxic pollutant except according to Code of
9 Federal Regulations, title 40, sections 400-460 and 6 MCAR SS
10 4.8014-4.8015 and any other applicable agency rules.

11 2. Noncompliance with a term or condition of this permit
12 subjects the permittee to penalties provided by federal and
13 state law set forth in Section 309 of the Clean Water Act,
14 United States Code, title 33, section 1319 as amended, and in
15 Minnesota Statutes, section 115.071, including monetary
16 penalties, imprisonment, or both.

17 3. In the event of a reduction or loss of effective
18 treatment of wastewater at the facility, the permittee shall
19 control production or curtail its discharges to the extent
20 necessary to maintain compliance with the terms and conditions
21 of this permit. The permittee shall continue this control or
22 curtailment until the wastewater treatment facility has been
23 restored or until an alternative method of treatment is provided.

24 4. The permittee shall submit monitoring data,
25 calculations, and results on a form provided by the director,
26 known as a discharge monitoring report.

27 5. If the permittee monitors a pollutant more frequently
28 than required by the permit, the permittee shall include data,
29 calculations, and results of this monitoring in the discharge
30 monitoring report.

31 6. Calculations of monitoring results that require
32 averaging of measurements must utilize an arithmetic mean unless
33 otherwise specified by the permit.

34 7. A person who falsifies, tampers with, or knowingly
35 renders inaccurate a monitoring device or method required to be
36 maintained under this permit is subject to penalties provided by

1 federal and state law, set forth in Section 309 of the Clean
2 Water Act, United States Code, title 33, section 1319 as amended
3 and Minnesota Statutes, section 115.071, subdivision 2, clause
4 (2).

5 8. A person who knowingly makes a false statement,
6 representation, or certification in a record or other document
7 submitted or required to be maintained under this permit,
8 including monitoring reports or reports of compliance or
9 noncompliance is subject to penalties provided by federal and
10 state law set forth in Section 309 of the Clean Water Act,
11 United States Code, title 33, section 1319, and Minnesota
12 Statutes, section 115.071, subdivision 2, clause (2).

13 9. In addition to other facts or incidents required by
14 the permit to be reported within 24 hours, the permittee shall
15 report in accordance with 6 MCAR S 4.4015 C.11. any
16 unanticipated bypass or upset that causes an exceedance of an
17 applicable effluent limitation. The permittee need not submit a
18 written report if the director finds that the written report is
19 unnecessary.

20 10. The permittee may allow a bypass to occur if the
21 bypass will not cause the exceedance of an effluent limitation
22 but only if the bypass is necessary for essential maintenance to
23 assure efficient operation of the facility. The permittee shall
24 submit notice of the need for the bypass at least ten days
25 before the date of the bypass or as soon as possible under the
26 circumstances.

27 11. The permittee shall not allow an anticipated bypass
28 to occur that will cause an exceedance of an applicable effluent
29 limitation unless the following conditions are met:

30 a. The bypass is unavoidable to prevent loss of life,
31 personal injury, or severe property damage. For the purposes of
32 this paragraph, "severe property damage" means substantial
33 damage to property of the permittee or of others; damage to the
34 wastewater treatment facilities that may cause them to become
35 inoperable; or substantial and permanent loss of natural
36 resources that can reasonably be expected to occur in the

1 absence of a bypass. "Severe property damage" does not mean
2 economic loss as a result of a delay in production.

3 b. There is no feasible alternative to the bypass,
4 such as the use of auxiliary treatment facilities, retention of
5 untreated wastes, or performance of maintenance during normal
6 periods of equipment downtime. This condition is not satisfied
7 if adequate back-up equipment should have been installed in the
8 exercise of reasonable engineering judgment to prevent a bypass
9 which occurred during normal periods of equipment downtime or
10 preventative maintenance.

11 c. The permittee has notified the director of the
12 anticipated bypass and the director has approved the bypass.
13 The director shall approve the bypass if the director finds that
14 the conditions set forth in 1. and 2. are met.

15 12. In the event of temporary noncompliance by the
16 permittee with an applicable effluent limitation resulting from
17 an upset at the permittee's facility due to factors beyond the
18 control of the permittee, the permittee has an affirmative
19 defense to an enforcement action brought by the agency as a
20 result of the noncompliance if the permittee demonstrates by a
21 preponderance of competent evidence:

22 a. the specific cause of the upset;

23 b. that the upset was unintentional;

24 c. that the upset resulted from factors beyond the
25 control of the permittee and did not result from operational
26 error, improperly designed treatment facilities, inadequate
27 treatment facilities, lack of preventative maintenance, or
28 increases in production which are beyond the design capability
29 of the treatment facilities;

30 d. that at the time of the upset the facility was
31 being properly operated;

32 e. that the permittee properly notified the director
33 of the upset in accordance with 9.; and

34 f. that the permittee implemented the remedial
35 measures required by 6 MCAR S 4.4015 C.10.

36 B. Permits to manufacturing, commercial, mining, or

1 silvicultural dischargers. A National Pollutant Discharge
2 Elimination System permit issued by the agency to a
3 manufacturing, commercial, mining, or silvicultural discharger
4 must contain the following additional conditions:

5 1. The permittee shall notify the director immediately of
6 any knowledge or reason to believe that an activity has occurred
7 that would result in the discharge of a toxic pollutant listed
8 in 6 MCAR S 4.4107 D.-J. or listed below that is not limited in
9 the permit, if the discharge of this toxic pollutant has
10 exceeded or is expected to exceed the following levels:

11 a. for acrolein and acrylonitrile, 200 micrograms per
12 liter;

13 b. for 2,4-dinitrophenol and
14 2-methyl-4,6-dinitrophenol, 500 micrograms per liter;

15 c. for antimony, one milligram per liter;

16 d. for any other toxic pollutant listed in 6 MCAR S
17 4.4107 D.-J., 100 micrograms per liter; or

18 e. five times the maximum concentration value
19 identified and reported for that pollutant in the permit
20 application.

21 2. The permittee shall notify the director immediately if
22 the permittee has begun or expects to begin to use or
23 manufacture as an intermediate or final by-product a toxic
24 pollutant that was not reported in the permit application under
25 6 MCAR S 4.4106 I.

26 C. Permits for publicly owned treatment works. A National
27 Pollutant Discharge Elimination System permit issued by the
28 agency to a publicly owned treatment works must require the
29 permittee to report the following to the director as soon as
30 possible:

31 1. the new introduction of pollutants into the publicly
32 owned treatment works from an indirect discharger that would be
33 subject to the requirements of Section 301 or 306 of the Clean
34 Water Act, United States Code, title 33, section 1311 or 1316 as
35 amended if it were directly discharging those pollutants;

36 2. a substantial change in the volume or character of

1 pollutants being introduced into the publicly owned treatment
2 works by a source that was introducing pollutants into the
3 publicly owned treatment works at the time the permit was
4 issued; and

5 3. the quantity and quality of the additional or changed
6 effluent being received by the publicly owned treatment works
7 and the anticipated impact on the effluent to be discharged by
8 the publicly owned treatment works.

9 6 MCAR S 4.4111 Final determination.

10 A. Issuance of permit. Except as provided in B.-D., the
11 agency shall issue a National Pollutant Discharge Elimination
12 System permit in accordance with 6 MCAR S 4.4014.

13 B. Certification. If the applicant is required to obtain a
14 certification under Section 401 of the Clean Water Act, United
15 States Code, title 33, section 1341 as amended, no permit may be
16 issued by the agency unless the agency finds that the
17 certification has been obtained by the applicant.

18 C. Violation of adjoining state's water quality standard.
19 The agency shall not issue a permit if it finds that the
20 applicant's discharge will result in the violation of water
21 quality standards adopted by a state that adjoins the receiving
22 water of the applicant's discharge.

23 D. Warfare agents. The agency shall not issue a permit if
24 it finds that the issuance will result in the discharge of a
25 radiological, chemical, or biological warfare agent.

26

27 Repealer. Pollution Control Agency Rule WPC 36 is repealed.