

## MEMORANDUM OF UNDERSTANDING

The following is a memorandum of understanding which outlines interim procedures to be utilized by the Regional Environmental Protection Agency office (EPA) and the Nebraska Department of Environmental Control (DEC) in conducting the National Pollutant Discharge Elimination System (NPDES) program prior to the time the Administrator would grant possible full approval of the Nebraska NPDES request. These procedures are designed to minimize duplication of state and EPA efforts in issuing NPDES discharge authorizations. This understanding would also maximize state participation in the processing of NPDES authorizations and thereby aid greatly in the provision of a smooth transition period at the time of possible approval of the Nebraska NPDES submittal.

### General Processing Procedures

The Nebraska DEC will be responsible for the initial drafting of all discharge authorizations for industrial, municipal and agricultural sources subject to NPDES filing requirements. The Nebraska DEC will draft the background materials for these discharges. EPA will be responsible for the clerical preparation of the finalized discharge authorizations. Conflicts of opinion which may arise from certain discharge authorization conditions will be resolved by decision of the Regional Administrator.

### Municipal NPDES Applications

1. The Municipal Permits Section, Air and Water Programs Division, will complete the processing to public notice for all administratively complete applications received from the Application Management Unit, Permit Branch, prior to December 19, 1973. Copies of these 126 (Attachment I) applications have also been sent to the Nebraska DEC.

2. The DEC will process the additional 90 municipal applications (Attachment II) and any subsequent applications. If additional analytical information is needed, the DEC will obtain this information prior to proposing the draft authorization and provide the Municipal Permits Section with a copy of any such information obtained.

3. The EPA Enforcement Branch, Enforcement Division, will complete their enforcement investigative efforts on 14 recalcitrant applicants (Attachment III) prior to the regional EPA office sending these applications to the DEC. If the DEC encounters difficulty in obtaining information essential to the processing of an application, the matter will be referred to EPA enforcement for action.

4. All applications received by the Application Management Unit, EPA Permits Branch after December 19, 1973, will be sent directly to the DEC for their processing. A copy will be retained by the Application Management Unit.

### Industrial NPDES Applications

1. The 41 industrial applications (Attachment IV) currently not on the processing schedule will be fully processed by the DEC. Request for

additional analytical information should be closely coordinated with the EPA Permits Branch to avoid duplication.

2. After January 1, 1974, the Permits Branch of EPA will not process any industrial NPDES authorizations unless specifically requested to do so by the DEC.

#### Agricultural NPDES Applications

All agricultural applications will be processed by the DEC according to a schedule arrived at jointly by the Agricultural Permit Coordinator, Region VII and the Chief, Agricultural Division, DEC.

#### Specific Processing Procedures

1. All drafted NPDES authorizations, rationale statements for effluent limitations, and fact sheets will be sent to the EPA Permits Branch, ATTN: Nebraska Industrial Permit Coordinator. Upon receipt in the regional EPA office, the Nebraska Industrial Permit Coordinator will circulate both the background materials and the proposed municipal and agricultural discharge authorizations for a one week internal review period. The proposed NPDES authorizations and background materials will be sent to the EPA office at least two weeks prior to the date of expected public notice issuance. Any alterations to the draft permit required by Federal law or regulations will be provided by EPA and the DEC will be so notified prior to public notice issuance. The absence of any comments from the EPA will constitute approval of the proposed authorization.

2. Fact sheets will be written by the DEC for any NPDES applicant who would discharge more than 500,000 gallons on any day in the calendar

year. For discharges under 500,000 gpd, an information sheet (Attachment V) will be prepared.

3. All NPDES discharge authorizations will be issued by December 31, 1974. This deadline is required by Section 402(k) of the Federal Water Pollution Control Act Amendments of 1972.

4. If upon the ending of a two-week EPA internal review no significant alterations are needed, EPA will issue the public notice for the applicant.

5. The regional EPA office will formally answer all public comments received and the DEC will prepare draft letters to be sent to the EPA answering the given public comment.

6. The DEC will include with each NPDES authorization sent to the regional office a concise statement of the rationale for the given effluent limitations.

7. All typed draft authorization and fact sheets will be in either the forms specified in Attachment VI or EPA approved alternative forms. These forms will be provided by EPA for DEC duplication as is necessary.

8. The regional EPA office will provide all NPDES exemption letters based upon information obtained by DEC personnel.

9. EPA will either issue or deny discharge authorizations for which it has issued a public notice.

10. If necessary, the DEC may request technical assistance in the preparing of discharge authorizations from EPA.

11. At the beginning of each calendar quarter of 1974, DEC staff will meet with appropriate EPA staff to establish a processing schedule for the industrial, municipal, and agricultural discharge authorizations. Should the DEC lag significantly behind this developed commitment, EPA will then resume the processing for all categories of NPDES discharge authorizations.

#### Federal Enforcement

Nothing in this agreement in any way precludes the Administrator from taking enforcement action under Section 309 of the Federal Water Pollution Control Act Amendments of 1972. The EPA will conduct a cooperative compliance monitoring program designed to support both State and Federal enforcement activities. EPA will be responsible for any and all enforcement required in connection with the NPDES program until such time as administration of the program is granted to DEC.

#### State Certification

Signature by the Director on the transmittal letter accompanying the proposed NPDES authorization shall constitute State waiver of certification under Section 401 of the Act unless the Director of the DEC states otherwise.

#### Adjudicatory Hearings

The Environmental Protection Agency will have exclusive authority to determine whether adjudicatory hearings will be held, to conduct such hearings, and to make final determinations pursuant thereto.

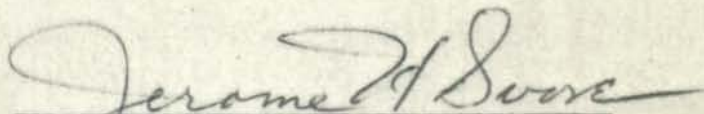
Modification of Previous Protocol Agreement

This instrument shall be considered a modification of the protocol agreement signed by the EPA on September 19, 1973, and by the State on September 21, 1973. Upon formal approval of the Nebraska NPDES programs by the Administrator of the EPA, this interim agreement will terminate.

The undersigned hereby certify that they have the authority to enter into such an agreement and to direct its implementation.

APPROVED:

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DATE

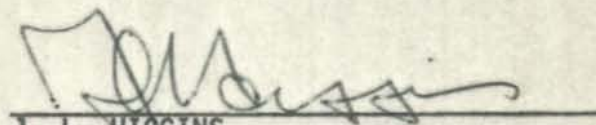
JEROME H. SVORE  
REGIONAL ADMINISTRATOR  
REGION VII  
U. S. ENVIRONMENTAL PROTECTION AGENCY

APPROVED:

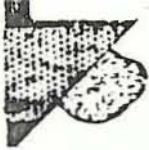
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DATE



J. L. HIGGINS  
DIRECTOR  
DEPARTMENT OF ENVIRONMENTAL CONTROL  
STATE OF NEBRASKA



MODIFICATION TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF NEBRASKA AND THE UNITED  
 STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VII.

The Memorandum of Agreement approved June 12, 1974, by the Administrator of the United States Environmental Protection Agency between the Nebraska Department of Environmental Control (hereinafter, the "State") and the United States Environmental Protection Agency (hereinafter, "U.S. EPA"), Region VII, is hereby modified to define State and U.S. EPA responsibilities for the establishment and enforcement of National Pretreatment Standards for existing and new sources under Section 307 (b) and (c) of the Clean Water Act (hereinafter the Act) as follows:

The State shall apply and enforce all applicable Pretreatment Regulations as required in 40 CFR Part 403, and any National Pretreatment Standards established by the U.S. EPA in accordance with Section 307 (b) and (c) of the Act. U.S. EPA will overview and approve State pretreatment program operations consistent with 40 CFR 403 regulations.

Nothing in this agreement is intended to affect any Pretreatment requirement including any standards or prohibitions, established by state or local laws as long as the state or local requirements are not less stringent than any set forth in the National Pretreatment Standards or other requirements or prohibitions established under the Act.



Nothing in this Modification shall be construed to limit the authority of U.S. EPA to take action pursuant to Sections 204, 208, 301, 304, 306, 307, 308, 309, 311, 402, 403, 404, 405, 501, or other Sections of the Clean Water Act of 1977 (33 USC §466 et seq).

This Modification will become effective upon approval of the Administrator.

STATE AGENCY

U.S. ENVIRONMENTAL PROTECTION AGENCY  
 REGION VII

By John T. Grain

By William Kay

Date: April 29, 1980

Date: 8-24-84

Approved:

William J. Lusch

Administrator

United States Environmental Protection Agency

Date: SEP 7 1984



AMENDMENT  
TO THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
MEMORANDUM OF AGREEMENT  
BETWEEN  
NEBRASKA DEPARTMENT OF ENVIRONMENTAL CONTROL  
AND THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VII

The Memorandum of Agreement between the United States Environmental Protection Agency, Region VII (hereafter EPA) and the Nebraska Department of Environmental Control (hereafter NDEC) is hereby amended to include NDEC and EPA responsibilities for the development, issuance and enforcement of National Pollutant Discharge Elimination System (hereafter NPDES) General Permits as follows:

The NDEC has the responsibility for developing and issuing NPDES General Permits. After identifying dischargers appropriately regulated by a general permit, the NDEC will collect sufficient effluent data to develop effluent limitations and prepare the draft general permit.

Each draft general permit will be transmitted to the following EPA offices:

Water Division Director  
U.S. Environmental Protection Agency, Region VII  
726 Minnesota Ave.  
Kansas City, Kansas 66101

Director, Office of Water Enforcement and Permits\*  
U.S. Environmental Protection Agency (EN-335)  
401 M Street S.W.  
Washington, D.C. 20460

EPA will have up to ninety (90) days to review draft general permits and provide comments, recommendations and objections to the NDEC. Each draft general permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development. In the event EPA does object to a general permit it will provide, in writing, the reasons for its objection and the actions necessary to eliminate the objection. The State has the right to a public hearing on the objection. Upon receipt of EPA's objection, the State may request a public hearing. If EPA's concerns are not satisfied, and the State has not requested a hearing within 90 days of the objection, the State will not issue the general permit as drafted.

\*General permits for discharges from separate storm sewers need not be sent to EPA Headquarters for review.




Each general permit will be publicly noticed in accordance with NDEC Title 119 and 40 CFR § 124.10, including publication in a daily or weekly newspaper circulated in the area to be covered by the permit. The NDEC may require any person authorized by a general permit to apply for, and obtain an individual NPDES permit. In addition, interested persons, including dischargers otherwise authorized by a general permit, may request that a facility be excluded from general permit coverage. Dischargers wishing exclusion must apply for an individual NPDES permit at any time during the development or life of the general permit. Finally, a discharger with an effective or continued individual NPDES permit may seek general permit coverage by requesting its permit to be revoked.

The NDEC also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.

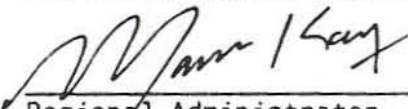
All specific State commitments regarding the issuance and enforcement of general permits will be determined through the annual SEA process.

This Amendment to the Memorandum of Agreement will be effective upon approval of the NDEC general permits program application by the Administrator of EPA Region VII.

FOR NEBRASKA DEPARTMENT OF ENVIRONMENTAL CONTROL

 Jan. 18, 1989  
Director Date

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

 2-24-89  
Regional Administrator Date  
U.S. EPA. Region VII