



ALASKA POLLUTANT DISCHARGE ELIMINATION SYSTEM

**GENERAL PERMIT FOR DISCHARGES FROM LARGE AND SMALL
CONSTRUCTION ACTIVITIES**

Permit Number: AKR100000

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Wastewater Discharge Authorization Program
555 Cordova St.
Anchorage, AK 99501**

In compliance with the provisions of the Clean Water Act (CWA), 33 U.S.C. §1251 et. seq., as amended by the Water Quality Act of 1987, P.L. 100-4, this permit is issued under provisions of Alaska Statutes (AS) 46.03; the Alaska Administrative Code (AAC) as amended; and other applicable State laws and regulations.

Operators of large and small construction activities that are described in Part 1.3 of this Alaska Pollutant Discharge Elimination System (APDES) construction general permit, except for those activities excluded from authorization of discharge in Part 1.3.3 of this permit, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein. Permit coverage is required from the "commencement of construction activities" until "final stabilization" as defined in Appendix A.

General permit coverage for storm water discharges from large and small construction activities was authorized by the U.S. Environmental Protection Agency (EPA) in accordance with the conditions and requirements of the 2003 construction general permit (CGP) effective July 1, 2003 as modified (2003 CGP), and the 2008 CGP effective June 30, 2008 as modified (2008 CGP). On October 19, 2009, EPA proposed to modify the 2008 CGP to extend the June 30, 2010 expiration date by one year to June 30, 2011.

On October 31, 2009, the authority to issue storm water discharge permits was transferred from EPA to ADEC. Consistent with the Memorandum of Agreement between EPA and ADEC this permit incorporates the terms and conditions of the 2008 CGP as appropriate into APDES format and extends the expiration date for the 2008 CGP coverage to June 30, 2011.

This permit as modified shall become effective on January 31, 2010.

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

Signed:

Sharon R. Morgan -
Signature

December 31, 2009
Date

Sharon R. Morgan
Printed Name

Acting Program Manager
Title

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PART 1 COVERAGE UNDER THIS PERMIT

1.1 Introduction

This Construction General Permit (CGP) authorizes storm water discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the United States or a municipal separate storm sewer system (MS4) leading to surface waters of the United States subject to the conditions set forth in this permit. This permit also authorizes storm water discharges from any other construction activity designated by the Alaska Department of Environmental Conservation (ADEC) where ADEC makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the United States.

This permit uses the terms “permittee” or “owner or operator” to identify the person(s) who owns or operates a “facility” or “activity” as defined in Appendix A and who must comply with the conditions of this permit. This format should allow the permittee of a large or small construction activity to easily locate and understand applicable requirements.

The goal of this permit is to minimize the discharge of storm water pollutants from construction activity.

1.2 Permit Area

If an owner or operator of a large or small construction activity is located within the State of Alaska, except the Indian Reservation of Metlakatla, the owner or operator may be eligible to obtain coverage under this permit.

1.3 Eligibility

Permit eligibility is limited to discharges from “large” and “small” construction activity, and to “new projects” and “unpermitted ongoing projects,” as defined in Appendix A or as otherwise designated by ADEC. This general permit contains eligibility restrictions, as well as permit conditions and requirements. The owner or operator may have to take certain actions to be eligible for coverage under this permit. In such cases, the owner or operator must continue to satisfy those eligibility provisions to maintain permit authorization. If the owner or operator does not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if the owner or operator is eligible for coverage under this permit and does not comply with the requirements of the general permit, the owner or operator may be in violation of the general permit for otherwise eligible discharges.

1.3.1 Allowable Storm Water Discharges

Subject to compliance with the terms and conditions of this permit, the permittee is authorized to discharge pollutants in:

- 1.3.1.1 Storm water discharges associated with large and small construction activity from “new projects” and “unpermitted ongoing projects” as defined in Appendix A;
- 1.3.1.2 Storm water discharges designated by ADEC as needing a storm water permit under 40 CFR §122.26(a)(1)(v) or §122.26(b)(15)(ii);
- 1.3.1.3 Discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
 - 1.3.1.3.1 The support activity is directly related to the construction site required to have APDES permit coverage for discharges of storm water associated with construction activity;
 - 1.3.1.3.2 The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
 - 1.3.1.3.3 Pollutant discharges from support activity areas are minimized in compliance with Part 3.1.7.
- 1.3.1.4 Discharges composed of allowable discharges listed in Parts 1.3.1 and 1.3.2 commingled with a discharge authorized by a different APDES or NPDES permit and/or a discharge that does not require APDES permit authorization.

1.3.2 Allowable Non-Storm Water Discharges

The permittee is authorized for the following non-storm water discharges, provided the non-storm water component of the discharge is in compliance with Part 5.4 (Non-Storm water Discharges):

- 1.3.2.1 Discharges from fire-fighting activities;
- 1.3.2.2 Fire hydrant flushings;
- 1.3.2.3 Waters used to wash vehicles where detergents are not used;
- 1.3.2.4 Water used to control dust in accordance with Part 3.1.2;
- 1.3.2.5 Potable water including uncontaminated water line flushings;

- 1.3.2.6 Routine external building wash down that does not use detergents;
- 1.3.2.7 Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
- 1.3.2.8 Uncontaminated air conditioning or compressor condensate;
- 1.3.2.9 Uncontaminated ground water or spring water;
- 1.3.2.10 Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- 1.3.2.11 Uncontaminated excavation dewatering; and
- 1.3.2.12 Landscape irrigation.

1.3.3 Limitations on Coverage

- 1.3.3.1 This permit does not authorize post-construction discharges that originate from the site after construction activities have been completed and the site has achieved final stabilization, including any temporary support activity. Post-construction storm water discharges from industrial sites may need to be covered by a separate APDES permit.
- 1.3.3.2 This permit does not authorize discharges mixed with non-storm water. This exclusion does not apply to discharges identified in Part 1.3.2, provided the discharges are in compliance with Part 5.4 (Non-Storm water Discharges).
- 1.3.3.3 This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part 2.6.
- 1.3.3.4 This permit does not authorize discharges that ADEC, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, ADEC may notify a permittee that an individual permit application is necessary in accordance with Part 2.6. However, ADEC may authorize coverage under this permit after the permittee has included appropriate controls and implementation procedures designed to bring the discharge into compliance with water quality standards.
- 1.3.3.5 Discharging into Receiving Waters With an Approved or Established Total Maximum Daily Load Analysis

- 1.3.3.5.1 The permittee is not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless the permittee implements measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the permittee must implement conditions applicable to discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to the permittee's discharge, the permittee must implement necessary steps to meet that allocation.
- 1.3.3.5.2 In a situation where an EPA-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, the permittee should consult with the State or Federal TMDL authority to confirm that meeting the effluent limits in Part 3 of this permit will be consistent with the approved TMDL. Where an EPA-approved or established TMDL has not specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, compliance with the effluent limits in Part 3 of this permit will generally be assumed to be consistent with the approved TMDL. If the EPA-approved or established TMDL specifically precludes such discharges, the permittee is not eligible for coverage under the CGP.
- 1.3.3.6 Endangered and Threatened Species and Critical Habitat Protection
- 1.3.3.6.1 Coverage under this permit is available only if the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities, as defined in Appendix A, are not likely to jeopardize the continued existence of any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is federally-designated as critical under the ESA ("critical habitat").
- 1.3.3.6.2 The permittee is not eligible to discharge if the storm water discharges, allowable non-storm water discharges, or storm water discharge-related activities would cause a prohibited "take" of federally-listed endangered or threatened species (as defined under section 3 of the ESA and 50 CFR §17.3), unless such takes are authorized under sections 7 or 10 of the ESA.

1.3.3.6.3 Determining Eligibility: The permittee must use the process in Appendix C (ESA Review Procedures) to determine eligibility PRIOR to submittal of the Notice of Intent (NOI). The permittee must meet one or more of the following six criteria (A-F) for the entire term of coverage under the permit:

- Criterion A. No federally-listed threatened or endangered species or their designated critical habitat are in the project area as defined in Appendix C; or
- Criterion B. Formal consultation with the United States Fish and Wildlife Service (FWS) and/or the United States National Marine Fisheries Service (NMFS) under section 7 of the ESA has been concluded and that consultation:
- i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
 - ii. The consultation resulted in either:
 - a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
 - b. Written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or
- Criterion C. Informal consultation with the FWS and/or the NMFS under section 7 of the ESA has been concluded and that consultation:
- i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
 - ii. The consultation resulted in either:
 - a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
 - b. Written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not

likely to adversely affect federally-listed species or federally-designated critical habitat; or

- Criterion D. The construction activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed species and federally-designated critical habitat; or
- Criterion E. Storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect any federally-listed threatened or endangered species or result in the destruction or adverse modification of federally-designated critical habitat; or
- Criterion F. The project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities were already addressed in another operator's valid certification of eligibility under Criteria A-E which included the permittee's construction activities and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the project area. By certifying eligibility under this criterion, the permittee agrees to comply with any measures or controls upon which the other operator's certification was based.

The permittee must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility requirements of the criteria in this section to remain eligible for coverage under this permit.

1.3.3.7 Historic Properties

The permittee must comply with applicable state, tribal and local laws concerning the protection of historic properties and places.

1.4 Waivers for Certain Small Construction Activities

Three scenarios exist under which small construction activities (as defined in Appendix A) may be waived from the APDES permitting requirements detailed in this general permit. These exemptions are predicated on certain criteria being met and proper notification procedures being followed. Details of the waiver options and procedures for requesting a waiver are provided in Appendix B.

PART 2 AUTHORIZATION FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITY

2.1 How to Obtain Authorization

To obtain coverage under this general permit, the owner or operator must prepare and submit a complete and accurate Notice of Intent (NOI), as described in this Part. Discharges are not authorized if the NOI is incomplete or inaccurate or if the permittee was never eligible for permit coverage.

2.2 How to Submit the NOI

The owner or operator must either use ADEC's electronic NOI system (accessible at <http://dec.alaska.gov/water/wnpspc/stormwater/index.htm>) or use a paper form available on ADEC's website <http://dec.alaska.gov/water/wnpspc/stormwater/index.htm> and then submit that paper form to:

Alaska Department of Environmental Conservation
Wastewater Discharge Authorization Program - Storm Water NOI
555 Cordova St.
Anchorage, AK 99501

2.3 Authorization to Discharge Date

The permittee is authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after acknowledgment of receipt of the permittee's completed NOI is posted on ADEC's Storm Water website at <http://dec.alaska.gov/water/wnpspc/stormwater/index.htm>. The exception to this 7-day timeframe is if ADEC delays the permittee's authorization based on eligibility considerations of Part 1.3 (e.g., ESA concerns). Under this circumstance, the permittee is not authorized for coverage under this permit until the permittee receives notice from ADEC of their eligibility.

2.4 Submission Deadlines

2.4.1 New Projects

To obtain coverage under this permit, the permittee must submit a complete and accurate NOI and be authorized consistent with Part 2.3 prior to commencement of construction activities (as defined in Appendix A).

2.4.2 Permitted Ongoing Projects

Previously permitted ongoing projects are not eligible for coverage under this permit. If the permittee previously received authorization to discharge for the project under the EPA (e.g. under the EPA 2003 CGP, or the EPA 2008 CGP), or from ADEC under the 2008 CGP following transfer of permitting authority from

EPA to ADEC on October 31, 2009, the permittee's authorization to discharge will be automatically continued under the respective permit until the expiration of this permit (currently June 30, 2011) and the issuance of a new CGP by ADEC, or the termination of coverage by the permittee under the respective permit, whichever is earlier. Note: If the permittee is an operator of a permitted ongoing project and transfers ownership of the project, or a portion thereof, to a different operator, that operator will be required to submit a complete and accurate NOI for a new project in accordance with Part 2.2.

2.4.3 Unpermitted Ongoing Projects

If the permittee previously did not receive authorization to discharge for the project under the 2003 CGP or the 2008 CGP and the permittee wishes to obtain coverage under this permit, the permittee must submit an NOI within 90 days of the issuance date of this permit.

2.4.4 Late Notifications

Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Part 2.3. The Department reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction activities (as defined in Appendix A) and discharge authorization.

2.5 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 18 AAC 83.155 and remain in force and effect. If the permittee was granted permit coverage prior to the expiration date, the permittee will automatically remain covered by the continued permit until the earliest of:

- 2.5.1** Reissuance or replacement of this permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization to discharge; or
- 2.5.2** The permittee submits a Notice of Termination; or
- 2.5.3** Issuance of an individual permit for the project's discharges; or
- 2.5.4** A formal permit decision by ADEC to not reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

2.6 Requiring Coverage Under an Individual Permit or an Alternative General Permit

- 2.6.1** ADEC may terminate or revoke any permittee's coverage under this permit, and may require a permittee to apply for and/or obtain either an individual APDES permit or coverage under an alternative APDES general permit. Any interested person may petition ADEC to take action under this paragraph. If ADEC requires a permittee to apply for an individual APDES permit, ADEC will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if an existing permittee is covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual APDES permit or the coverage or denial of coverage under the alternative general permit as it applies to that existing permittee, coverage under this general permit will automatically terminate. Applications must be submitted to ADEC at the ADEC office listed in Part 2.2 of this permit. ADEC may grant additional time to submit the application upon written request. If the permittee is covered under this permit and fails to submit in a timely manner an individual APDES permit application as required by ADEC, then the applicability of this permit is automatically terminated at the end of the day specified by ADEC as the deadline for application submittal.
- 2.6.2** A permittee may request to be excluded from coverage under this general permit by applying for an individual permit. In such a case, the permittee shall submit an individual application in accordance with the requirements of 18 AAC 83.215), with reasons supporting the request, to ADEC at the applicable ADEC office listed in Part 2.2 of this permit. The request may be granted by issuance of an individual permit or coverage under an alternative general permit if the reasons are adequate to support the request.
- 2.6.3** When an individual NPDES or APDES permit is issued to a permittee (as an entity that is otherwise subject to this permit), or the permittee is authorized to discharge under an alternative APDES general permit, the applicability of this permit is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If a permittee (as an entity that is otherwise subject to this permit) is denied an individual APDES permit or an alternative APDES general permit, the applicability of this permit to the permittee is automatically terminated on the date of such denial, unless otherwise specified by ADEC.

PART 3 EFFLUENT LIMITS

This section includes technology-based and water quality-based effluent limits that apply to all dischargers, unless otherwise specified. The permittee must select, install, and maintain control measures (e.g., Best Management Practices (“BMPs”), controls, practices, etc.) for each major construction activity identified in the Part 5 project description to meet these effluent limits. All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. The permittee must implement the control measures from commencement of construction activity until final stabilization is complete.

The term “minimize” as used in Part 3 means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practice.

3.1 Effluent Limits to Reduce Pollutants in Storm Water Discharges

The permittee must implement control measures to minimize pollutants in storm water discharges.

3.1.1 Sediment Controls

The permittee must implement the following, where applicable:

- 3.1.1.1 Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage area from a 2-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location, it is not necessary to include flows from offsite areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the operator may consider factors such as site soils, slope, available area on-site, etc. In any event, the operator must consider public safety, especially as it relates to children, as a design factor for the sediment basin, and alternative sediment controls must be used where site limitations would preclude a safe design.
- 3.1.1.2 For drainage locations which serve ten (10) or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable,

smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions).

- 3.1.1.3 For drainage locations serving less than ten (10) acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided.

3.1.2 Off-Site Sediment Tracking and Dust Control

The permittee must minimize off-site vehicle tracking of sediments onto paved surfaces and the generation of dust. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

3.1.3 Runoff Management

The permittee must divert flows from exposed soils, retain/detain flows or otherwise minimize runoff and the discharge of pollutants from exposed areas of the site. The permittee must avoid placement of structural practices in floodplains to the degree technologically and economically practicable and achievable.

3.1.4 Erosive Velocity Control

The permittee must place velocity dissipation devices at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

3.1.5 Post-Construction Storm Water Management

The permittee must comply with any applicable federal, local, state, or tribal requirements regarding the design and installation of post-construction storm water controls. Structural measures should be placed on upland soils to the degree practicable and achievable.

3.1.6 Construction and Waste Materials

The permittee must:

- 3.1.6.1 Prevent the discharge of solid materials, including building materials, to waters of the United States, except as authorized by a permit issued under section 404 of the CWA;
- 3.1.6.2 Minimize exposure of construction and waste materials to storm water, and the occurrence of spills, through the use of storage practices, prevention and response practices, and other controls; and
- 3.1.6.3 Prevent litter, construction debris, and construction chemicals (e.g., diesel fuel, hydraulic fluids, and other petroleum products) that could be exposed to storm water from becoming a pollutant source in storm water discharges.

3.1.7 Non-Construction Wastes

The permittee must minimize pollutant discharges from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants).

3.1.8 Erosion Control and Stabilization

- 3.1.8.1 **General Requirements:** The permittee must stabilize the site. The permittee must ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. The permittee should avoid using impervious surfaces for stabilization.
- 3.1.8.2 **Initiation Deadlines:** The permittee must initiate stabilization measures, except as provided below, as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
 - 3.1.8.2.1 Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
 - 3.1.8.2.2 Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the site.

- 3.1.8.2.3 In arid, semiarid, and drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within 14 days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures must be initiated as soon as practicable.

3.1.9 Spills / Releases in Excess of Reportable Quantities

- 3.1.9.1 The permittee is not authorized to discharge hazardous substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.
- 3.1.9.2 Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period, the permittee must:
- 3.1.9.2.1 Provide notice to the National Response Center (NRC) (800-424-8802) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and during normal business hours call the nearest ADEC Area Response Team Office – Southeast (Juneau) 907-465-5340; Central (Anchorage) 907-269-3063; Northern (Fairbanks) 907-451-2121; or outside normal business hours call 1-800-478-9300; and
- 3.1.9.2.2 Within seven (7) calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release to the nearest ADEC Area Response Team Office, listed in Part 3.1.9.2.1. The permittee must also implement measures to prevent the reoccurrence of such releases and to respond to such releases.

3.2 Effluent Limits to Reduce Pollutants in Non-Storm Water Discharges

The permittee must minimize any non-storm water discharges authorized by this permit.

3.3 Effluent Limits Related to Endangered Species

The permittee must protect federally-listed endangered or threatened species, or federally-designated critical habitat to maintain eligibility under Part 1.3.3.6.

3.4 Attainment of Water Quality Standards

- 3.4.1** The permittee must select, install, implement and maintain control measures at the construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained in Part 3.4.2 below, the permittee's storm water controls developed, implemented, and updated consistent with the other provisions of Part 3 are considered as stringent as necessary to ensure that the permittee's discharges do not cause or contribute to an excursion above any applicable water quality standard.
- 3.4.2** At any time after authorization, ADEC may determine that the permittee's storm water discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, ADEC will require the permittee to:
- 3.4.2.1 Modify storm water controls in accordance with Part 3.6 to address adequately the identified water quality concerns;
 - 3.4.2.2 Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
 - 3.4.2.3 Cease discharges of pollutants from construction activity and submit an individual permit application according to Part 2.6.
- 3.4.3** All written responses required under this part must include a signed certification consistent with the requirements of Appendix F.

3.5 Consistency with Total Maximum Daily Loads

If the permittee is discharging into a water with an EPA established or approved TMDL, the permittee must implement measures to ensure that their discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including any specific wasteload allocation that has been established that would apply to the permittee's discharge. See Part 1.3.3.5 for further information on determining permit eligibility related to TMDLs.

3.6 Maintenance of Control Measures

- 3.6.1** The permittee must maintain all control measures and other protective measures in effective operating condition. If site inspections required by Part 4 identify BMPs that are not operating effectively, the permittee must perform maintenance as soon as possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.
- 3.6.2** If existing BMPs need to be modified or if additional BMPs are necessary for any reason, the permittee must complete implementation before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the permittee must implement alternative BMPs as soon as possible.
- 3.6.3** The permittee must remove sediment from sediment traps or sedimentation ponds when design capacity has been reduced by 50 percent.
- 3.6.4** The permittee must remove trapped sediment from a silt fence before the deposit reaches 50 percent of the above-ground fence height (or before it reaches a lower height based on manufacturer's specifications).

3.7 Training of Employees

The permittee must train employees and subcontractors as necessary to make them aware of the applicable control measures implemented at the site so that they follow applicable procedures.

3.8 Applicable State, Tribal, or Local Programs

The permittee must ensure that the storm water controls implemented at the site are consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management.

PART 4 INSPECTIONS

4.1 Inspection Frequency

The permittee must conduct inspections in accordance with one of the two schedules listed below. The permittee must specify in the SWPPP which schedule will be followed.

- 4.1.1 At least once every seven (7) calendar days, OR
- 4.1.2 At least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

4.2 Case-by-Case Reductions in Inspection Frequency

The permittee may reduce inspection frequency to at least once every month if:

- 4.2.1 The entire site is temporarily stabilized;
- 4.2.2 Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen); or
- 4.2.3 Construction is occurring during seasonal arid periods in arid areas and semi-arid areas.

4.3 Inspection Waiver for Frozen Conditions

A waiver of the inspection requirements is available until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:

- 4.3.1 The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month);
- 4.3.2 Land disturbance activities have been suspended; and
- 4.3.3 The beginning and ending dates of the waiver period are documented in the SWPPP.

4.4 Qualified Personnel

Inspections must be conducted by qualified personnel (provided by the operator or cooperatively by multiple operators). "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.

4.5 Scope of Inspections

Inspections must include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to waters of the United States, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the

extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

4.6 Reductions in Scope of Inspections for Stabilized Areas

Once a definable area has been finally stabilized, no further inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc).

4.7 Utility Line Inspections

Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Part 4.5 above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25 mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile segment to either the end of the next 0.25 mile inspected segment, or to the end of the project, whichever occurs first.

4.8 Inspection Report

4.8.1 For each inspection required above, the permittee must complete an inspection report. At a minimum, the inspection report must include:

- 4.8.1.1 The inspection date;
- 4.8.1.2 Names, titles, and qualifications of personnel making the inspection;
- 4.8.1.3 Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
- 4.8.1.4 Weather information and a description of any discharges occurring at the time of the inspection;
- 4.8.1.5 Location(s) of discharges of sediment or other pollutants from the site;

- 4.8.1.6 Location(s) of BMPs that need to be maintained;
 - 4.8.1.7 Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
 - 4.8.1.8 Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
 - 4.8.1.9 Corrective action required including implementation dates.
- 4.8.2** The inspection report must be signed in accordance with the requirements of Appendix F of this permit.

PART 5 STORM WATER POLLUTION PREVENTION PLANS (SWPPPs)

5.1 Storm Water Pollution Prevention Plan Framework

- 5.1.1** The permittee must prepare a SWPPP before submitting the Notice of Intent (NOI) for permit coverage. At least one SWPPP must be developed for each construction project covered by this permit and the storm water controls implemented at the site must be documented in the SWPPP. If the permittee prepared a SWPPP for coverage under a previous NPDES or APDES permit, the permittee must review and update the SWPPP prior to submitting the NOI.

The SWPPP does not contain effluent limitations; the technology and water quality-based effluent limitations are contained in Part 3 of this permit. The SWPPP is intended to document the selection, design, installation, and implementation of control measures that are being used to comply with the effluent limitations set forth in Part 3.

- 5.1.2** The SWPPP must:

- 5.1.2.1 Identify all potential sources of pollutants that may reasonably be expected to affect the quality of storm water discharges from the construction site; and
- 5.1.2.2 Describe control measures to be used to meet the effluent limits set forth in Part 3.

5.2 SWPPP Contents: Site and Activity Description

5.2.1 Construction Site Operators

The SWPPP must identify all operators for the project site and the areas of the site over which each operator has control.

5.2.2 Nature of Construction Activity

The SWPPP briefly must describe the nature of the construction activity, including:

- 5.2.2.1 The function of the project (e.g., low density residential, shopping mall, highway, etc.);
- 5.2.2.2 The intended sequence and timing of activities that disturb soils at the site;
- 5.2.2.3 Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and
- 5.2.2.4 A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and waters of the United States within one mile of the site.

5.2.3 Site Map

The SWPPP must contain a legible site map, showing the entire site, identifying:

- 5.2.3.1 Direction(s) of storm water flow and approximate slopes anticipated after grading activities;
- 5.2.3.2 Areas of soil disturbance and areas that will not be disturbed (or a statement that all areas of the site will be disturbed unless otherwise noted);
- 5.2.3.3 Locations of major structural and nonstructural BMPs identified in the SWPPP;
- 5.2.3.4 Locations where stabilization practices are expected to occur;
- 5.2.3.5 Locations of off-site material, waste, borrow or equipment storage areas;
- 5.2.3.6 Locations of all waters of the United States (including wetlands);
- 5.2.3.7 Locations where storm water discharges to a surface water; and
- 5.2.3.8 Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

5.2.4 Construction and Waste Materials

The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate.

5.2.5 Locations of Other Industrial Storm Water Discharges

The SWPPP must describe and identify the location and description of any storm water discharge associated with industrial activity other than construction at the site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants that are covered by this permit.

5.3 Description of Control Measures to Reduce Pollutant Discharges

5.3.1 Control Measures

The SWPPP must include a description of all control measures that will be implemented to meet the effluent limits in Part 3. For each major activity identified in the project description the SWPPP must clearly document appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.

5.3.2 Stabilization

The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented.

5.3.3 Post-Authorization Records

The following records must be maintained with the SWPPP following authorization under this permit:

- 5.3.3.1 Dates when grading activities occur;
- 5.3.3.2 Dates when construction activities temporarily or permanently cease on a portion of the site; and
- 5.3.3.3 Dates when stabilization measures are initiated.

5.4 Non-Storm Water Discharges

The SWPPP must identify all allowable sources of non-storm water discharges listed in Part 1.3.2 of this permit, except for flows from fire fighting activities that are combined with storm water discharges associated with construction activity at the site. The SWPPP must also describe the pollution prevention measures used to eliminate or reduce non-storm water discharges consistent with Part 3.2.

5.5 Documentation of Permit Eligibility Related to Endangered Species

The SWPPP must include documentation supporting a determination of permit eligibility with regard to the Endangered Species Act, including:

- 5.5.1** Information on whether federally-listed endangered or threatened species or federally-designated critical habitat may be in the project area;
- 5.5.2** Whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project;
- 5.5.3** Results of the Appendix C listed species and critical habitat screening determinations;
- 5.5.4** Confirmation of delivery of NOI to ADEC or to ADEC's electronic NOI system. This may include an overnight, express, or registered mail receipt acknowledgment or electronic acknowledgment from ADEC's electronic NOI system;
- 5.5.5** Any correspondence for any stage of project planning between the FWS, EPA, NMFS, or others and the permittee regarding listed species and critical habitat, including any notification that delays the permittee's authorization to discharge under this permit; and
- 5.5.6** A description of measures necessary to protect federally-listed endangered or threatened species or federally-designated critical habitat.

5.6 Documentation of Permit Eligibility Related to Total Maximum Daily Loads

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters of the United States that have an EPA-established or approved TMDL, including:

- 5.6.1** Identification of whether the permittee's discharge is identified, either specifically or generally, in an EPA-established or approved TMDL and any associated allocations, requirements, and assumptions identified for the discharge;
- 5.6.2** Summaries of consultation with State or Federal TMDL authorities on consistency of SWPPP conditions with the approved TMDL; and
- 5.6.3** Measures taken by the permittee to ensure that the discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including any specific wasteload allocation that has been established that would apply to their discharge.

See Part 1.3.3.5 for further information on determining permit eligibility related to TMDLs.

5.7 Copy of Permit Requirements

A copy of this permit and of the signed and certified NOI form that was submitted to ADEC must be included in the SWPPP. Also, upon receipt, a copy of the letter from ADEC, notifying the permittee of the Department's receipt of the administratively complete NOI must also be included as a component of the SWPPP.

5.8 Applicable State, Tribal, or Local Programs

The SWPPP must be updated as necessary to reflect any revisions to applicable federal, state, tribal, or local requirements that affect the storm water controls the permittee implements at the construction site.

5.9 Inspections

A record of each inspection and of any actions taken in accordance with Part 4 must be retained with the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with this permit.

5.10 Maintaining an Updated Plan

The SWPPP must be updated:

- 5.10.1** To reflect modifications to storm water control measures made in response to a change in design, construction, operation, or maintenance at the construction site that has or could have a significant effect on the discharge of pollutants to the waters of the United States that has not been previously addressed in the SWPPP.
- 5.10.2** If during inspections or investigations by site staff, or by local, state, tribal or federal officials, it is determined that the existing storm water controls are ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.
- 5.10.3** Based on the results of an inspection, as necessary to properly document additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within seven (7) calendar days following the inspection.

5.11 Signature, Plan Review, and Making Plans Available

5.11.1 Retention of SWPPP

A copy of the SWPPP (including a copy of the permit), NOI, and acknowledgement letter from ADEC must be retained at the construction site (or other location easily

accessible during normal business hours to ADEC, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a MS4 receiving discharges from the site; and representatives of the FWS or the NMFS) from the date of commencement of construction activities to the date of final stabilization. If the permittee has day-to-day operational control over SWPPP implementation, the permittee must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

5.11.2 Main Entrance Signage

A sign or other notice must be posted conspicuously near the main entrance of the construction site. If displaying near the main entrance is infeasible, the notice can be posted in a local public building such as the town hall or public library. The sign or other notice must contain the following information:

5.11.2.1 A copy of the completed NOI as submitted to ADEC; and

5.11.2.2 If the location of the SWPPP or the name and telephone number of the contact person for scheduling SWPPP viewing times has changed (i.e., is different than that submitted in the NOI), the current location of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

5.11.3 Availability of SWPPP

SWPPPs must be made available upon request by ADEC; a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a MS4 receiving discharges from the site; and representatives of the FWS or the NMFS to the requestor. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the ADEC staff for review and copying at the time of an on-site inspection.

5.11.4 Signature and Certification

All SWPPPs must be signed and certified in accordance with the requirements of Appendix F.

5.12 Requirements for Different Types of Operators

The permittee may meet one or both of the operational control components in the definition of operator found in Appendix A. Part 5.12.3 applies to all permittees having control over only a portion of a construction site.

5.12.1 If the permittee has operational control over construction plans and specifications, the permittee must ensure that:

- 5.12.1.1 The project specifications meet the minimum requirements of this Part and all other applicable permit conditions;
- 5.12.1.2 The SWPPP indicates the areas of the project where the permittee has operational control over project specifications, including the ability to make modifications in specifications;
- 5.12.1.3 All other permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner; and
- 5.12.1.4 The SWPPP indicates the name of the party(ies) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions.

5.12.2 If the permittee has operational control over day-to-day activities, the permittee must ensure that:

- 5.12.2.1 The SWPPP meets the minimum requirements of this Part and identifies the parties responsible for implementation of control measures identified in the plan;
- 5.12.2.2 The SWPPP indicates areas of the project where the permittee has operational control over day-to-day activities; and
- 5.12.2.3 The SWPPP indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).

- 5.12.3** If the permittee has operational control over only a portion of a larger project (e.g., one of four homebuilders in a subdivision), the permittee is responsible for compliance with all applicable effluent limits, terms, and conditions of this permit as it relates to the activities on the permittee's portion of the construction site, including protection of endangered species, critical habitat, and historic properties and implementation of control measures described in the SWPPP. The permittee must ensure, either directly or through coordination with other permittees, that activities do not render another party's pollutant discharge controls ineffective. The permittee must either implement a portion of a common SWPPP or develop and implement its own SWPPP.

For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required to, develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, cooperation between the permittees is encouraged to ensure the storm water discharge control measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

5.13 Submittal of SWPPP for Review

- 5.13.1** The permittee must submit a copy of the SWPPP to ADEC for review (at the address specified in Part 2.2) if the project is located outside the areas of the local governments described in Parts 5.13.2, 5.13.3, 5.13.4, and 5.13.5 and the project disturbs five or more acres of land;

5.13.2 Within the Municipality of Anchorage

- 5.13.2.1 An owner or operator of construction projects disturbing one or more acres of land shall submit a copy of the SWPPP to either ADEC or the Municipality based on the project type and operator as shown in the following table

Project Type	Submit SWPPP to
Government (federal, state, municipal) road projects and other government transportation projects such as ports, railroads or airports	ADEC
Utility projects for which the utility is initiating the work	Municipality
Work that requires a Building Permit	Municipality
Non-publicly funded transportation projects	Municipality

- 5.13.2.2 Submittal of the SWPPP to the Municipality should be made before or at the same time the NOI is submitted to ADEC and shall be accompanied by any

Municipality-required fee. A copy of the SWPPP shall be submitted to the Municipality at the following address:

Municipality of Anchorage
Office of Planning Development and Public Works
4700 South Elmore Rd.
PO Box 196650
Anchorage, AK 99519-6650

5.13.2.3 Submittals to ADEC shall include a copy of the SWPPP for review.

5.13.3 Within the urbanized area boundary of the Fairbanks North Star Borough check with the Borough for the latest requirements.

Fairbanks North Star Borough
Department of Public Works
PO Box 71267
Fairbanks, AK 99707

5.13.4 Within the urbanized area boundary of the City of Fairbanks

5.13.4.1 Owners or operators of privately-funded construction projects disturbing one or more acres of land shall submit a copy of the SWPPP to the City of Fairbanks.

5.13.4.2 Submittal of the SWPPP to the City of Fairbanks should be made before or at the same time the NOI is submitted to ADEC and shall be accompanied by any City-required fee. A copy of the SWPPP shall be submitted to the City of Fairbanks at the following address:

City of Fairbanks
Engineering Division
800 Cushman St
Fairbanks, AK 99701

5.13.4.3 Owners or operators of publicly-funded projects disturbing one or more acres of land shall submit a copy of the SWPPP to ADEC for review.

5.13.5 Within the urbanized area boundary of the City of North Pole

5.13.5.1 Owners or operators of privately-funded construction projects disturbing one or more acres of land shall submit a copy of the SWPPP to the City of North Pole.

5.13.5.2 Submittal of the SWPPP to the City of North Pole should be made before or at the same time the NOI is submitted to ADEC and shall be accompanied by any City-required fee. A copy of the SWPPP shall be submitted to the City of North Pole at the following address:

City of North Pole
Department of Public Works
125 Snowman Lane
North Pole, AK 99705

5.13.5.3 Owners or operators of publicly-funded projects disturbing one or more acres of land shall submit a copy of the SWPPP to ADEC for review.

5.13.6 For Post-Construction (Permanent) Storm Water Control Measures (Part 3.1.5 [Post-Construction Storm Water Management] of the CGP)

5.13.6.1 Operators of construction projects who construct, alter, install, modify, or operate any part of a storm water treatment system and are located outside the Municipality of Anchorage, shall submit a copy of the engineering plans to ADEC for review at the address given in Part 2.2 (see 18 AAC 72.600).

5.13.6.2 Operators of construction projects who construct, alter, install, modify, or operate any part of a storm water treatment system and are located inside the Municipality of Anchorage, shall submit a copy of the engineering plans to the respective government agency based on project type, as indicated in the table in Part 5.13.2.1, for review at the addresses given in Part 2.2 or 5.13.2.2

PART 6 TERMINATION OF COVERAGE

6.1 Submitting a Notice of Termination

Submit a complete and accurate Notice of Termination (NOT) either electronically (strongly encouraged) at http://www.dec.state.ak.us/water/wnpssc/storm_water/index.htm or by completing the paper Notice of Termination form found on ADEC's website http://www.dec.state.ak.us/water/wnpssc/storm_water/index.htm and submitting that form to the address listed in Part 2.2. If the permittee received an NOI from EPA before October 31, 2009, the permittee must submit the NOT to ADEC.

6.2 When to Submit a Notice of Termination

6.2.1 The permittee may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

6.2.1.1 Final stabilization has been achieved on all portions of the site for which the permittee is responsible;

6.2.1.2 Another operator has assumed control according to the requirements of Appendix F over all areas of the site that have not been finally stabilized;

- 6.2.1.3 Coverage under an individual or alternative general NPDES or APDES permit has been obtained; or
 - 6.2.1.4 For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.
- 6.2.2** The NOT must be submitted within thirty (30) days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

PART 7 RETENTION OF RECORDS

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three (3) years from the date that permit coverage expires or is terminated. This period may be extended by request of ADEC at any time.

PART 8 REOPENER CLAUSE

8.1 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 18 AAC 83.130, 18 AAC 83.135, 18 AAC 83.140, and 18 AAC 83.145.

8.2 Water Quality Protection

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, the permittee may be required to obtain an individual permit in accordance with Part 2.6 of this permit, or the permit may be modified to include different limitations and/or requirements.

8.3 Timing of Permit Modification

ADEC may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.

Appendix A

Abbreviations and Definitions

Appendix A. Abbreviations and Definitions (for the purposes of this permit)**Abbreviations**

ADEC	Alaska Department of Environmental Conservation
APDES	Alaska Pollutant Discharge Elimination System
BMP or BMPs	Best Management Practice(s)
CGP	Construction General Permit
CFR	Code of Federal Regulations
CWA	Clean Water Act
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FWS	United States Fish and Wildlife Service
MS4	Municipal Separate Storm Sewer System
MSGP	Multi-Sector General Permit
NHPA	National Historic Preservation Act
NMFS	United States National Marine Fisheries Service
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SHPO	State Historic Preservation Office
SWPPP	Storm Water Pollution Prevention Plan
THPO	Tribal Historic Preservation Officer
TMDL	Total Maximum Daily Load
WQS	Water Quality Standard

Definitions

Arid Areas	Areas with an average annual rainfall of 0 to 10 inches.
Best Management Practices or BMPs	Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
Clean Water Act or CWA	The Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.
Commencement of Construction Activities	The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).
Control Measure	As used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
Department	Refers to the Alaska Department of Environmental Conservation
Discharge	When used without qualification means the “discharge of a pollutant”
Discharge of Storm Water Associated with Construction Activity	As used in this permit, refers to a discharge of pollutants in storm water from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck chute washdown, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.
Eligible	Qualified for authorization to discharge storm water under this general permit.
Facility or Activity	Any “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the APDES program
Federal Facility	Any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.
Final Stabilization	Means that : <ol style="list-style-type: none"> 1. All soil disturbing activities at the site have been completed and either of the two following criteria are met: <ol style="list-style-type: none"> a. a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or b. equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. 2. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent ($0.70 \times 0.50 = 0.35$) would require 35 percent total cover for final

stabilization. On a beach with no natural vegetation, no stabilization is required.

3. In arid and semi-arid areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:
 - a. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the permittee,
 - b. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.
4. For individual lots in residential construction, final stabilization means that either:
 - a. The homebuilder has completed final stabilization as specified above, or
 - b. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.
5. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “waters of the United States,” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1), (2), or (3) above.

Indian country

Defined at 40 CFR §122.2 to mean:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

Large Construction Activity

Defined at 40 CFR §122.26(b)(14)(x) and incorporated here by reference. A large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five (5) acres of land or will disturb less than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five (5) acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

Municipal Separate Storm Sewer System or MS4

Defined at 40 CFR §122.26(b)(8) to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management

agency under section 208 of the CWA that discharges to waters of the United States;

2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

New Project	The “commencement of construction ” occurs after the effective date of this permit.
Ongoing Project	The “commencement of construction ” occurs before the effective date of this permit.
Operator	<p>For the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:</p> <ol style="list-style-type: none"> 1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or 2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of ADEC’s interpretation of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of storm water associated with construction activity.
Owner or operator	Means the owner or operator of any “facility or activity” subject to regulation under the APDES program
Permittee	Means the company, organization, association, entity or person who has coverage under this permit and must comply with conditions of this permit.
Permitting Authority	The Alaska Department of Environmental Conservation or an authorized representative
Point Source	Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
Pollutant	Defined at 40 CFR §122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.
Project Area	– The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes storm water to flow into a small wetland or other habitat that is on the

site that contains listed species.)

– The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where storm water flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.)

– The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)

– The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs. (Example: Where a storm water retention pond would be built.)

– The areas upstream and /or downstream from construction activities discharges into a stream segment that may be affected by the said discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

Receiving water	The “waters of the United States” as defined in 40 CFR §122.2 into which the regulated storm water discharges
Runoff coefficient	The fraction of total rainfall that will appear at the conveyance as runoff.
Semi-Arid Areas	Areas with an average annual rainfall of 10 to 20 inches.
Site	The land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity.
Small Construction Activity	Defined at 40 CFR §122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.
Storm Water	Storm water runoff, snow melt runoff, and surface runoff and drainage.
Storm Water Discharge-Related Activities	Activities that cause, contribute to, or result in storm water point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and measures to control storm water including the siting, construction and operation of BMPs to control, reduce or prevent storm water pollution.
Total Maximum Daily Load or TMDL	The sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Waters of the United States Defined at 18 AAC 83.900(77).

Wetland Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Appendix B

Small Construction Waivers and Instructions

Appendix B - Small Construction Waivers and Instructions

These waivers are only available to storm water discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each owner or operator, otherwise needing permit coverage, must notify ADEC of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the owner or operator changes or another is added during the construction project, the new owner or operator must also submit a waiver certification to be waived.

A. Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The owner or operator must certify to the ADEC that construction activity will occur only when the rainfall erosivity factor is less than 5. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide temporary non-vegetative stabilization can be used for the end of the construction period, provided the owner or operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the construction general permit have been met. If use of this temporary stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The owner or operator must submit a waiver certification to ADEC prior to commencing construction activities.

Note: The basis of the rainfall erosivity factor "R" was determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service. R factor information for Alaska can be found in the Fact Sheet and were obtained from RUSLE2 Version 1.26.6.4 http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Index.htm. (Database last modified on Feb, 28, 2008).

If the owner or operator of the construction activity is eligible for a waiver based on low erosivity potential, the owner or operator may submit a rainfall erosivity waiver to the address listed in Part 2.2 of this permit and provide the following information on the waiver certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operators;

2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The rainfall erosivity factor calculation that applies to the active construction phase at your project site; and
5. A statement, signed and dated by an authorized representative as provided in Appendix F that certifies that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five.

An owner or operator can access the waiver certification form from ADEC's website at: (<http://www.dec.state.ak.us/water/wnpssc/stormwater/index.htm>) the form must be sent to the addresses listed in Part 2.2 of this permit.

Note: If the R factor is 5 or greater, you cannot apply for the rainfall erosivity waiver, and must apply for permit coverage as per Part 2.1 of the construction general permit, unless you qualify for the Water Quality Waiver as described below.

If the small construction project continues beyond the projected completion date given on the waiver certification, the owner or operator must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five (5), the owner or operator must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of the site SWPPP. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure exemption from permitting requirements is uninterrupted. If the new R factor is five (5) or above, the owner or operator must submit an NOI as per Part 2 of this permit.

B. TMDL Waiver

This waiver is available if EPA has established or approved a TMDL that addresses the pollutant(s) of concern and has determined that controls on storm water discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by EPA is available from EPA online at <http://www.epa.gov/owow/tmdl/> and from ADEC online at <http://www.dec.state.ak.us/water/tmdl/approvedtmdls.htm> .

If the owner or operator of the construction activity is eligible for a waiver based on compliance with an ADEC or EPA established or approved TMDL, the owner or operator must provide the following information on the Waiver Certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;

3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water body(s) that would be receiving storm water discharges from your construction project;
5. The name and approval date of the TMDL;
6. A statement signed and dated by an authorized representative as provided in Appendix E, Subsection 11 that certifies that the construction activity will take place and that the storm water discharges will occur within the drainage area addressed by the TMDL.

C. Equivalent Analysis Waiver

This waiver is available for non-impaired waters only (see <http://www.dec.state.ak.us/water/wqsar/waterbody/integratedreport.htm> for list of impaired waters). The owner or operator can develop an equivalent analysis that determines allocations for the small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction owner or operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If the owner or operator of the construction activity wants to use this waiver, the owner or operator must develop an equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water bodies that would be receiving storm water discharges from your construction project;
5. The equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix F that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the equivalent analysis.

D. Waiver Deadlines and Submissions

1. Waiver certifications must be submitted prior to commencement of construction activities (as defined in Appendix A).
2. If an owner or operator submits a TMDL or equivalent analysis waiver request, that owner or operator is not waived until ADEC approves the request. As such, the owner or operator may not commence construction activities until receipt of approval from ADEC.

3. Late Notifications: Owners or operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. ADEC reserves the right to take enforcement for any unpermitted discharges that occur between the time of commencement of construction activities and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of storm water associated with small construction activity, provided the owner or operator qualifies for the waiver. Any discharge of storm water associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, ADEC reserves the right to take enforcement for any unpermitted discharges that occur between the time of commencement of construction activities and either discharge authorization is granted or a complete and accurate waiver certification is submitted. ADEC may notify any operator covered by a waiver that they must apply for a permit. ADEC may notify any owner or operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition ADEC to take action under this provision by submitting written notice along with supporting justification.

Appendix C

Endangered Species Act Review Procedures

Appendix C - Endangered Species Act Review Procedures

The permittee must meet at least one of the six criteria in Part 1.3.3.6 to be eligible for coverage under this permit. The permittee must follow the procedures in this Appendix to assess the potential effects of storm water discharges and storm water discharge-related activities on listed species and their critical habitat. When evaluating these potential effects, permittees must evaluate the entire project area.

For purposes of this Appendix, the term “project area” is inclusive of the term “Action Area.” Action area is defined in 50 CFR §402.02 as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action.

This includes areas beyond the footprint of the construction area that may be affected by storm water discharges and storm water discharge related activities. “Project area” is defined in Appendix A.

(Permittees who are eligible and able to certify eligibility under Criterion B, C, D, or F of Part 1.3.3.6 because of a previously issued ESA section 10 permit, a previously completed ESA section 7 consultation, or because the operator’s activities were already addressed in another operator’s certification of eligibility may proceed directly to Step Four.)

Step One: Determine if Listed Threatened or Endangered Species are Present On or Near the Permittee Project Area

The permittee must determine, to the best of their knowledge, whether listed species are located on or near their project area. To make this determination, the permittee should:

- Determine if listed species are in their county or township. The local offices of the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and State or Tribal Heritage Centers often maintain lists of federally listed endangered or threatened species on their internet sites. Visit <http://www.epa.gov/npdes/stormwater/cgp> to find the appropriate site for your state or check with your local office. In most cases, these lists allow the permittee to determine if there are listed species in their county or township.
- If there are listed species in the permittee’s county or township, check to see if critical habitat has been designated and if that area overlaps or is near the permittee’s project area.
- Contact the local FWS, NMFS, or State or Tribal Heritage Center to determine if the listed species could be found on or near the permittee’s project area and if any critical habitat areas have been designated that overlap or are near the permittee’s project area. Critical habitat areas may be designated independently from the listed species for the permittee’s county, so even if there are no listed species in the permittee’s county or township, the permittee must still contact one of the agencies mentioned above to determine if there are any critical habitat areas on or near the permittee’s project area.

The permittee can also find critical habitat designations and associated requirements at 50 CFR Parts 17 and 226. <http://www.access.gpo.gov>.

If there are no listed species in the permittee's county or township, no critical habitat areas on or near your project area, or if the local FWS, NMFS, or State or Tribal Heritage Center indicates that listed species are not a concern in the permittee's part of the county or township, the permittee may check box A on the Notice of Intent Form.

If there are listed species and if the local FWS, NMFS, or State or Tribal Heritage Center indicates that these species could exist on or near the permittee's project area, the permittee will need to do one or more of the following:

- Conduct visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
- Conduct a formal biological survey. In some cases, particularly for larger construction sites with extensive storm water discharges, biological surveys may be an appropriate way to assess whether species are located on or near the project area and whether there are likely adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful in conjunction with Steps Two, Three, or Four of these instructions.
- Conduct an environmental assessment under the National Environmental Policy Act (NEPA). Such reviews may indicate if listed species are in proximity to the project area. Coverage under the CGP does not trigger such a review because the CGP does not regulate new sources (that is, dischargers subject to New Source Performance Standards under section 306 of the Clean Water Act), and is thus statutorily exempted from NEPA. See CWA section 511(c). However, some construction activities might require review under NEPA for other reasons such as federal funding or other federal involvement in the project.
- If listed threatened or endangered species or critical habitat is present in the project area, you must look at impacts to species and/or habitat when following Steps Two through Four. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this CGP may require measures to protect critical habitat that are separate from those to protect listed species.

Step Two: Determine if the Construction Activity's Storm Water Discharges or Storm Water Discharge- Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat

To receive CGP coverage, the permittee must assess whether their storm water discharges or storm water discharge related activities is likely to adversely affect listed threatened or endangered species or designated critical habitat that are present on or near the permittee's project area.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- *Hydrological.* Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If the permittee is having difficulty determining whether their project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to the permittee, the permittee must contact the appropriate office of the FWS, NMFS or Natural Heritage Center for assistance. If adverse effects are not likely, then the permittee may check box E on the NOI form and apply for coverage under the CGP. If the discharge may adversely effect listed species or critical habitat, you must follow Step Three.

Step Three: Determine if Measures Can Be Implemented to Avoid Adverse Effects

If the permittee makes a preliminary determination that adverse effects are likely to occur, the permittee can still receive coverage under Criterion E of Part 1.3.3.6 of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for CGP coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the “footprint” of the construction activity. The permittee should contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR §402.13(b)). This can entail the initiation of informal consultation with the FWS and/or NMFS (described in more detail in Step Four).

If the permittee adopts measures to avoid or eliminate adverse affects, the permittee must continue to abide by those measures for the duration of the construction project and coverage under the CGP. These measures must be described in the SWPPP and are enforceable CGP conditions and/or conditions for meeting the eligibility criteria in Part 1.3. If appropriate measures to avoid the likelihood of adverse effects are not available, the permittee must follow Step Four.

Step Four: Determine if the Eligibility Requirements of Criterion B, C, D, or F of Part 1.3.3.6 Can Be Met

Where adverse effects are likely, the permittee must contact the FWS and/or NMFS. The permittee may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting Criterion B, C, D, or F of Part 1.3.3.6 of the CGP. These criteria are as follows:

1. *An ESA Section 7 Consultation Is Performed for Your Activity (See Criterion B or C of Part 1.3.3.6 of the CGP).*

Formal or informal ESA section 7 consultation is performed with the FWS and/or NMFS that addresses the effects of the permittee's storm water discharges and storm water discharge-related activities on federally-listed and threatened species and designated critical habitat. FWS and/or NMFS may request that consultation take place if any actions are identified that may affect listed species or critical habitat. In order to be eligible for coverage under this permit, consultation must result in a "no jeopardy opinion" or a written concurrence by the Service(s) on a finding that the permittee's storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (For more information on consultation, see 50 CFR §402). If the permittee receives a "jeopardy opinion," the permittee may continue to work with the FWS and/or NMFS and ADEC to modify the permittee's project so that it will not jeopardize listed species or designated critical habitat.

Most consultations are accomplished through informal consultation. By the terms of this CGP, EPA has automatically designated operators as non-federal representatives for the purpose of conducting informal consultations. See Part 1.3.3.6 and 50 CFR §402.08 and §402.13. When conducting informal ESA section 7 consultation as a non-federal representative, the permittee must follow the procedures found in 50 CFR Part 402 of the ESA regulations. The permittee must notify FWS and/or NMFS of their intention and agreement to conduct consultation as a non-federal representative.

Consultation may occur in the context of another federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, operators may, if they wish, initiate consultation with the Services at Step Four.

Whether ESA section 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species that may be affected by the permittee's activity. In general, NMFS has jurisdiction over marine, estuaries, and anadromous species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

2. *An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Permittee's Activity (See Criterion D of Part 1.3.3.6 of the CGP).*

The permittee's construction activities are authorized through the issuance of a permit under section 10 of the ESA and that authorization addresses the effects of your storm water discharge(s) and storm water discharge-related activities on federally-listed species and designated critical habitat. The permittee must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1) for FWS and §222.22 for NMFS). Application instructions for section 10 permits for FWS and NMFS can be obtained by accessing the FWS and NMFS websites (<http://www.fws.gov> and <http://www.nmfs.noaa.gov>) or by contacting the appropriate FWS and NMFS regional office.

3. *The permittee is Covered Under the Eligibility Certification of Another Permittee for the Project Area (See Criterion F of Part 1.3.3.6 of the CGP).*

The permittee's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Criteria A through E of Part 1.3.3.6 which also included the permittee's project area. For example, a general contractor or developer may have completed and filed an NOI for the entire project area with the necessary Endangered Species Act certifications (criteria A-E), subcontractors may then rely upon that certification and must comply with any conditions resulting from that process. By certifying eligibility under Criterion F of Part 1.3.3.6, the permittee agrees to comply with any measures or controls upon which the other permittee's certification under Criterion B, C, or D of Part 1.3.3.6 was based. Certification under Criterion F of Part 1.3.3.6 is discussed in more detail in the Fact Sheet that accompanies this permit.

The permittee must comply with any terms and conditions imposed under the eligibility requirements of Criterion A through F to ensure that their storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Part 1.3.3.6 cannot be met, then the permittee is not eligible for coverage under the CGP. In these instances, the permittee may consider applying to ADEC for an individual permit.

Appendix D

Notice of Intent (NOI) Form

Appendix D –Notice of Intent (NOI) Form

From the effective date of this permit, to obtain coverage under this permit, an owner or operator must submit a Notice of Intent (NOI). The owner or operator must either (1) apply for coverage using ADEC's electronic Notice of Intent (eNOI) system, available at <http://www.dec.state.ak.us/water/wnpssc/stormwater/index.htm> , or (2) file a paper copy of the NOI which is available at the above website and sent to the address given in Part 2.2 of this permit.

Appendix E

Notice of Termination (NOT) Form

Appendix E – Notice of Termination (NOT) Form

From the effective date of this permit, to terminate coverage under this permit, the permittee must submit a Notice of Termination (NOT). The permittee must either (1) terminate coverage using ADEC's electronic NOI system, available at <http://www.dec.state.ak.us/water/wnpssc/stormwater/index.htm> , or (2) file a paper copy of the NOT which is available at the above website and sent to the address given in Part 2.2 of this permit.

Appendix F

Standard Permit Conditions

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Appendix F, Standard Conditions is an integral and enforceable part of the permit. Failure to comply with a Standard Condition in this Appendix constitutes a violation of the permit and is subject to enforcement.

1.0 Standard Conditions Applicable to All Permits

1.1 Contact Information and Addresses

1.1.1 Permitting Program

Documents, reports, and plans required under the permit and Appendix F are to be sent to the following address:

Alaska Department of Environmental Conservation
Division of Water
WDAP – Storm Water Section
555 Cordova Street
Anchorage, Alaska 99501
Telephone (907) 269-6285
Fax (907) 269-7508
Email: DEC.Water.WQPermit@alaska.gov

1.1.2 Compliance and Enforcement Program

Documents and reports required under the permit and Appendix F relating to compliance are to be sent to the following address:

Alaska Department of Environmental Conservation
Division of Water
Compliance and Enforcement Program
555 Cordova Street
Anchorage, Alaska 99501
Telephone Nationwide (877) 569-4114
Anchorage Area / International (907) 269-4114
Fax (907) 269-4604
Email: dec-wqreporting@alaska.gov

1.2 Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and applicable state law is grounds for enforcement action by ADEC including termination, revocation and

reissuance, modification of a permit, or denial of a permit renewal application. A permittee shall comply with effluent standards or prohibitions established under 33 U.S.C. §1317(a) for toxic pollutants within the time provided in the regulations that establish those effluent standards or prohibitions even if the permit has not yet been modified to incorporate the requirement.

1.3 Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. In accordance with 18 AAC 83.105(b), the permittee with a currently effective permit shall reapply by submitting a new application at least 180 days before the existing permit expires, unless the Department has granted the permittee permission to submit an application on a later date. However, the Department will not grant permission for an application to be submitted after the expiration date of the existing permit.

1.4 Need to Halt or Reduce Activity Not a Defense

In an enforcement action, the permittee shall not assert as a defense that compliance with the conditions of the permit would have made it necessary for the permittee to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

1.5 Duty to Mitigate

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

1.6 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 the permittee installs or uses to achieve compliance with the conditions of the permit. The permittee's duty to properly operate and maintain includes using adequate laboratory controls and appropriate quality assurance procedures. However, the permittee is not required to operate back-up or auxiliary facilities or similar systems that the permittee installs unless operation of those facilities is necessary to achieve compliance with the conditions of this permit.

1.7 Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause as provided in 18 AAC 83.130. If the permittee files a request to modify, revoke and reissue, or terminate a permit, or gives notice of planned changes or anticipated noncompliance, the filing or notice does not stay any permit condition.

1.8 Property Rights

The permit does not convey any property rights or exclusive privilege.

1.9 Duty to Provide Information

The permittee shall, within a reasonable time, provide to the Department any information that the Department requests to determine whether a permittee is in compliance with the permit, or whether cause exists to modify, revoke and reissue, or terminate the permit. A permittee shall also provide to the Department, upon request, copies of any records the permittee is required to keep under the permit.

1.10 Inspection and Entry

A permittee shall allow the Department, or an authorized representative, including a contractor acting as a representative of the Department, at reasonable times and upon presentation of credentials and any other documents as may be required by law, to:

- 1.10.1 Enter the premises where the permittee's regulated facility or activity is located or conducted, or where permit conditions require records to be kept;
- 1.10.2 Have access to and copy any records that permit conditions require the permittee to keep;
- 1.10.3 Inspect any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and
- 1.10.4 Sample or monitor any substances or parameters at any location for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act.

1.11 Monitoring and Records

The permittee must comply with the following monitoring and recordkeeping conditions:

- 1.11.1 Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.
- 1.11.2 The permittee shall retain records in Alaska of all monitoring information for at least three (3) years, or longer at the Department's request at any time, from the date of the sample, measurement, report, or application. Monitoring records required to be kept include:
 - 1.11.2.1 All calibration and maintenance records;
 - 1.11.2.2 All original strip chart recordings or other forms of data approved by the Department for continuous monitoring instrumentation;
 - 1.11.2.3 All reports required by this permit;
 - 1.11.2.4 Records of all data used to complete the application for this permit;

- 1.11.2.5 Field logbooks or visual monitoring logbooks;
 - 1.11.2.6 Quality assurance chain of custody forms;
 - 1.11.2.7 Copies of discharge monitoring reports; and
 - 1.11.2.8 A copy of this permit.
- 1.11.3 Records of monitoring information must include:
- 1.11.3.1 The date, exact place, and time of any sampling or measurement;
 - 1.11.3.2 The name(s) of any individual(s) who performed the sampling or measurements;
 - 1.11.3.3 The date(s) and time any analysis was performed;
 - 1.11.3.4 The name(s) of any individual(s) who performed any analysis;
 - 1.11.3.5 Any analytical technique or method used; and
 - 1.11.3.6 The results of the analyses.
- 1.11.4 Monitoring Procedures
- Analyses of pollutants using test procedures approved under 40 CFR Part 136, adopted by reference at 18 AAC 83.010, for pollutants with approved test procedures, and using test procedures specified in the permit for pollutants without approved methods.

1.12 Signature Requirements and Penalties

- 1.12.1 Any application, report, or information submitted to the Department in compliance with requirement of this permit must be signed and certified in accordance with 18 AAC 83.385. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under a permit, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be subject to penalties under 33 U.S.C. §1319(c)(4) and
- 1.12.2 In accordance with 18 AAC 83.385, any application for coverage under this permit (e.g. NOI) must be signed as follows:
- 1.12.2.1 For a corporation, by a responsible corporate officer; or
 - 1.12.2.2 For a partnership or sole proprietorship, by the general partner or the proprietor, respectively; or
 - 1.12.2.3 For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official.

- 1.12.3 In accordance with 18 AAC 83.385, any report required by this permit, including the SWPPP, and a submittal with any other information requested by the Department, must be signed by a person described in Appendix F, Part 1.12.2, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 1.12.3.1 The authorization is made in writing by a person described in Appendix F, Part 1.12.2;
 - 1.12.3.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, including the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility; or an individual or position having overall responsibility for environmental matters for the company; and
 - 1.12.3.3 The written authorization is submitted to the Department to the Permitting Program address in Appendix F, Part 1.1.1, or included in the SWPPP.
- 1.12.4 Changes to Authorization. If an authorization under Appendix F, Part 1.12.3 is no longer effective because a different individual or position has responsibility for the overall operation of the regulated facility or activity, a new NOI satisfying the requirements of Appendix F, Part 1.12.3 must be submitted to the Department, or included in the SWPPP, prior to or together with any report, information, or application to be signed by an authorized representative.
- 1.12.5 Any person signing a document under Appendix F, Part 1.12.2 or Part 1.12.3 shall certify as follows:
- "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."

1.13 Proprietary or Confidential Information

- 1.13.1 A permit applicant or permittee may assert a claim of confidentiality for proprietary or confidential business information by stamping the words “confidential business information” on each page of a submission containing proprietary or confidential business information. The Department will treat the stamped submissions as confidential if the information satisfies the test in 40 CFR §2.208, adopted by reference in 18 AAC 83.010, and is not otherwise required to be made public by state law.
- 1.13.2 A claim of confidentiality under Appendix F, Part 1.13.1 may not be asserted for the name and address of any permit applicant or permittee, a permit application, a permit, effluent data, sewage sludge data, and information required by APDES or NPDES application forms provided by the Department, whether submitted on the forms themselves or in any attachments used to supply information required by the forms.
- 1.13.3 A permittee’s claim of confidentiality authorized under Appendix F, Part 1.13.1 is not waived if the Department provides the proprietary or confidential business information to the EPA or to other agencies participating in the permitting process. The Department will supply any information obtained or used in the administration of the state APDES program to the EPA upon request under 40 CFR §123.41, as revised as of July 1, 2005. When providing information submitted to the Department with a claim of confidentiality to the EPA, the Department will notify the EPA of the confidentiality claim. If the Department provides the EPA information that is not claimed to be confidential, the EPA may make the information available to the public without further notice.

1.14 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under any applicable state laws addressing oil and hazardous substances.

1.15 Cultural and Paleontological Resources

If cultural or paleontological resources are discovered after the initial commencement of construction activities, work that would disturb such resources is to be stopped, and the Office of History and Archaeology, a Division of Parks and Outdoor Recreation of the Alaska Department of Natural Resources (<http://www.dnr.state.ak.us/parks/oha/>), is to be notified immediately at (907) 269-8721.

1.16 Fee

The permittee must pay the appropriate permit fee described in 18 AAC 72.

1.17 Other Legal Obligations

To the extent not otherwise included in any of the other standard conditions covered under this subpart, any other permit conditions generally required to be included in an APDES permit under 18 AAC 83 are hereby incorporated by reference and applicable to this permit. This permit does not relieve the permittee from the duty to obtain any other necessary permits from the Department or from other local, state, or federal agencies and to comply with the requirements contained in any such permits. All activities conducted and all plan approvals implemented by the permittee pursuant to the terms of this permit shall comply with all applicable local, state, and federal laws and regulations.

2.0 Special Reporting Obligations

2.1 Planned Changes

- 2.1.1 The permittee shall give notice to the Department as soon as possible of any planned physical alteration or addition to the permitted facility if:
 - 2.1.1.1 The alteration or addition may make the facility a “new source” under one or more of the criteria in 18 AAC 83.990(44); or
 - 2.1.1.2 The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged if those pollutants are not subject to effluent limitations in the permit or to notification requirements under 18 AAC 83.610.
- 2.1.2 If the proposed changes are subject to plan review, then the plans must be submitted at least thirty (30) days before implementation of changes (see 18 AAC 15.020 and 18 AAC 72 for plan review requirements). Written approval is not required for an emergency repair or routine maintenance.
- 2.1.3 Written notice must be sent to the Permitting Program address in Appendix F, Part 1.1.1, or included in the SWPPP.

2.2 Anticipated Noncompliance

- 2.2.1 The permittee shall give seven (7) days’ notice to the Department before commencing any planned change in the permitted facility or activity that may result in noncompliance with permit requirements.
- 2.2.2 Written notice must be sent to the Compliance and Enforcement Program address in Appendix F, Part 1.1.2.

2.3 Transfers

- 2.3.1 The permittee may not transfer a permit for a facility or activity to any person except after written notice to the Department in accordance with 18 AAC 83.150. The Department may modify or revoke and reissue the permit to change the name of the permittee and incorporate such other requirements under the Clean Water Act or any applicable state law.
- 2.3.2 Written notice must be sent to the Permitting Program address in Appendix F, Part 1.1.1.

2.4 Compliance Schedules

- 2.4.1 The permittee must submit progress or compliance reports on interim and final requirements in any compliance schedule of this permit no later than fourteen (14) days following each schedule date.
- 2.4.2 Written notice must be sent to the Compliance and Enforcement Program address in Appendix F, Part 1.1.2.

2.5 Corrective Information

- 2.5.1 If the permittee becomes aware that it failed to submit a relevant fact in a permit application or submitted incorrect information in a permit application or in any report to the Department, the permittee shall promptly submit the relevant fact or the correct information.
- 2.5.2 Information must be sent to the Permitting Program address in Appendix F, Part 1.1.1.

2.6 Bypass

2.6.1 Prohibition of Bypass

Bypass is prohibited. The Department may take enforcement action against the permittee for any bypass, unless:

- 2.6.1.1 The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- 2.6.1.2 There were no feasible alternatives to the bypass, including use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. However, this condition is not satisfied if the permittee, in the exercise of reasonable engineering judgment, should have installed adequate back-up equipment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- 2.6.1.3 The permittee provides notice to the Department of a bypass event in the manner, as appropriate, under Appendix F, Part 2.6.2.

- 2.6.2 Notice of bypass
 - 2.6.2.1 For an anticipated bypass, the permittee submits written notice at least ten (10) days before the date of the bypass. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the conditions of Appendix F, Parts 2.6.1.1 and 2.6.1.2.
 - 2.6.2.2 For an unanticipated bypass, the permittee submits 24-hour notice, as required in 18 AAC 83.410(f) and Appendix F, Part 3.4, Twenty-four Hour Reporting.
 - 2.6.2.3 Written notice must be sent to the Compliance and Enforcement Program address in Appendix F, Part 1.1.2.
- 2.6.3 Notwithstanding Appendix F, Part 2.6.1, a permittee may allow a bypass that:
 - 2.6.3.1 Does not cause an effluent limitation to be exceeded, and
 - 2.6.3.2 Is for essential maintenance to assure efficient operation.

2.7 Upset

- 2.7.1 In any enforcement action for noncompliance with technology-based permit effluent limitations, the permittee may claim upset as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof to show that the requirements of Appendix F, Part 2.7.2 are met.
- 2.7.2 To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - 2.7.2.1 An upset occurred and the permittee can identify the cause or causes of the upset;
 - 2.7.2.2 The permitted facility was at the time being properly operated;
 - 2.7.2.3 The permittee submitted 24-hour notice of the upset, as required in 18 AAC 83.410(f) and Appendix F, Part 3.4, Twenty-four Hour Reporting; and
 - 2.7.2.4 The permittee complied with any mitigation measures required under 18 AAC 83.405(e) and Appendix F, Part 1.5, Duty to Mitigate.
- 2.7.3 Any determination made in administrative review of a claim that noncompliance was caused by upset, before an action for noncompliance is commenced, is not final administrative action subject to judicial review.

3.0 Monitoring, Recording, and Reporting Requirements

3.1 Representative Sampling

If the permittee is required to collect effluent samples by this permit, the permittee must collect effluent samples from the effluent stream after the last treatment unit before discharge into the receiving waters. Samples and measurements must be representative of the volume and nature of the monitored activity or discharge.

3.2 Reporting of Monitoring Results

At intervals specified in the permit, monitoring results must be reported on the EPA discharge monitoring report (DMR) form, as revised as of March 1999, adopted by reference.

3.2.1 Monitoring results shall be summarized each month on the DMR form or an approved equivalent report. The permittee must submit the DMR form or equivalent report on a monthly basis postmarked by the 15th day of the following month.

3.2.2 The permittee must sign and certify all DMRs and all other reports in accordance with the requirements of Appendix F, Part 1.11, Signatory Requirements and Penalties. All signed and certified legible original DMRs and all other reports and documents must be submitted to the Department at the Compliance and Enforcement Program address in Appendix F, Part 1.1.2.

3.2.3 If, during the period when this permit is effective, the Department makes available electronic reporting, the permittee may, as an alternative to the requirements of Appendix F, Part 3.2.2, submit monthly DMRs electronically by the 15th day of the following month in accordance with guidance provided by the Department. The permittee must certify all DMRs and other reports, in accordance with the requirements of Appendix F, Part 1.12. The permittee must retain the legible originals of these documents and make them available to the Department upon request.

3.3 Additional Monitoring by Permittee

If the permittee monitors any pollutant more frequently than the permit requires using test procedures approved in 40 CFR Part 136, adopted by reference in 18 AAC 83.010, or as specified in this permit, the results of that additional monitoring must be included in the calculation and reporting of the data submitted in the DMR required by Appendix F, Part 3.2. All limitations that require averaging of measurements must be calculated using an arithmetic means unless the Department specifies another method in the permit. Upon request by the Department, the permittee must submit the results of any other sampling and monitoring regardless of the test method used.

3.4 Twenty-four Hour Reporting

The permittee shall report any noncompliance event that may endanger health or the environment as follows:

- 3.4.1 A report must be made:
 - 3.4.1.1 Orally within 24 hours after the permittee becomes aware of the circumstances, and
 - 3.4.1.2 In writing within five (5) days after the permittee becomes aware of the circumstances.
- 3.4.2 A report must include the following information:
 - 3.4.2.1 A description of the noncompliance and its causes, including the specific details of the noncompliance;
 - 3.4.2.2 The period of noncompliance, including exact dates and times;
 - 3.4.2.3 If the noncompliance has not been corrected, a statement regarding the anticipated time the noncompliance is expected to continue; and
 - 3.4.2.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 3.4.3 An event that must be reported within 24 hours includes:
 - 3.4.3.1 An unanticipated bypass that exceeds any effluent limitation in the permit (see Appendix F, Part 2.6, Bypass).
 - 3.4.3.2 An upset that exceeds any effluent limitation in the permit (see Appendix F, Part 2.7, Upset).
 - 3.4.3.3 A violation of a maximum daily discharge limitation for any of the pollutants listed in the permit as requiring 24-hour reporting.
- 3.4.4 The Department may waive the written report on a case-by-case basis for reports under Appendix F, Part 3.4 if the oral report has been received within 24 hours of the permittee becoming aware of the noncompliance event.
- 3.4.5 The permittee may satisfy the written reporting submission requirements of Appendix F, Part 3.4.1.2 by submitting the written report via e-mail, if the following conditions are met:
 - 3.4.5.1 The written report includes all the information required under Appendix F, Part 3.4.2;
 - 3.4.5.2 The written report is properly certified and signed in accordance with 18 AAC 83.385 and 18 AAC 83.405(l);
 - 3.4.5.3 The written report is scanned as a PDF (portable document format) document and transmitted to the Department as an attachment to the e-mail; and
 - 3.4.5.4 The permittee retains in the SWPPP the original signed and certified written report.

- 3.4.6 The e-mail and PDF written report will satisfy the written report submission requirements of this permit provided the e-mail is received by the Department within five (5) days after the time the permittee becomes aware of the noncompliance event and the e-mail and written report satisfy the criteria of Part 3.4.5. The e-mail address to report noncompliance to ADEC is at: dec-wqreporting@alaska.gov

3.5 Other Noncompliance Reporting

The permittee shall report all instances of noncompliance not required to be reported under Appendix F, Parts 2.4 (Compliance Schedules), 3.3 (Additional Monitoring by Permittee), and 3.4 (Twenty-four Hour Reporting) at the time the permittee submits monitoring reports under Appendix F, Part 3.2 (Reporting of Monitoring Results). A report of noncompliance under this part must contain the information listed in Appendix F, Part 3.4.2 and be sent to the Compliance and Enforcement Program address in Appendix F, Part 1.1.2.

4.0 Penalties for Violations of Permit Conditions

Alaska laws allow the State to pursue both civil and criminal actions concurrently for violations of the conditions of this permit.

4.1 Civil Action

Under AS 46.03.760(e), a person who violates or causes or permits to be violated a regulation, a lawful order of the Department, or a permit, approval, or acceptance, or term or condition of a permit, approval or acceptance issued under the program authorized by AS 46.03.020 (12) is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$5,000 for each day after that on which the violation continues, and that shall reflect, when applicable:

- 4.1.1 Reasonable compensation in the nature of liquated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability, and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;
- 4.1.2 Reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;
- 4.1.3 The economic savings realized by the person in not complying with the requirements for which a violation is charged; and
- 4.1.4 The need for an enhanced civil penalty to deter future noncompliance.

4.2 Civil Injunctive Relief

- 4.2.1 Under AS 46.03.820, the Department may, without prior hearing, where a person is causing, engaging, or maintaining a condition or activity which in the judgment of the Department presents an imminent or present danger to the health or welfare of the people of the State of Alaska that would be likely to result in irreversible damage to the natural resources or environment, order that person to immediately discontinue, abate, or alleviate the condition or activity. Upon receipt of notice of such an order, the proscribed condition or activity shall be immediately discontinued, abated, or alleviated.
- 4.2.2 Under AS 46.03.765, the Department can bring an action in Alaska Superior Court seeking to enjoin ongoing or threatened violations for Department-issued permits and Department statutes and regulations.

4.3 Criminal Action

Under AS 46.03.790(h), a person is guilty of a Class A misdemeanor if the person negligently:

- 4.3.1 Violates a regulation adopted by the Department under AS 46.03.020(12);
- 4.3.2 Violates a permit issued under the program authorized by AS 46.03.020(12);
- 4.3.3 Fails to provide information or provides false information required by a regulation adopted under AS 46.03.020(12);
- 4.3.4 Makes a false statement, representation, or certification in an application, notice, record, report, permit, or other document filed, maintained, or used for purposes of compliance with a permit issued under or a regulation adopted under AS 46.03.020(12); or
- 4.3.5 Renders inaccurate a monitoring device or method required to be maintained by a permit issued or under a regulation adopted under AS 46.03.020(12).

4.4 Other Fines

Upon conviction of a violation of a regulation adopted under AS 46.03.020(12), AS 46.03.790(g) provides that a defendant who is not an organization may be sentenced to pay a fine of not more than \$10,000 for each separate violation.