

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

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

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, the "Act",

Cook Inlet Pipeline Company
Drift River Terminal

is authorized to discharge wastewater from a ballast water treatment plant (the "facility" - outfall 001) into an unnamed ditch and sanitary and/or domestic wastewater from the Christy Lee Platform ("the platform" - outfall 002) to Redoubt Bay,

<u>Outfall</u>	<u>Latitude</u>	<u>Longitude</u>
001	60°34'43"	152°08'18"
002	60°33'19"	152°08'03"

in accordance with the effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective February 1, 2004.

This permit and the authorization to discharge shall expire at midnight on February 1, 2009.

Signed this 15th day of December 2003

Marie Jennings/RS
Randall E. Smith
Director, Office of Water, Region 10
U.S. Environmental Protection Agency

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit, and lasting through the expiration date, the permittee is authorized to discharge wastewater provided the discharge meets the limitations and monitoring requirements set forth herein. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application.

A. Treated Ballast Water (Outfall 001)

Such discharge shall be limited and monitored by the permittee as follows:

1. The pH shall not be less than 6.5 nor greater than 8.5 standard pH units.
2. The permittee shall include the length of each discharge event in the Comments portion of the Discharge Monitoring Report (DMR).
3. The following limits shall apply:

Effluent Characteristics	Discharge Limitations		Sampling Frequency	Sampling Type	DMR Reported Values
	average monthly	daily maximum			
Flow, gallons per day (gpd)	---	300,000	Hourly during periods of flow	Gauge	Maximum daily, monthly total and length of discharge event
Oil & Grease*, mg/L	7	9	3/batch**	Grab	Maximum concentration and monthly average
Total Suspended Solids (TSS), mg/L	---	33	3/batch**	Grab	Maximum concentration
Total Aromatic Hydrocarbons, µg/L	***	10	1/batch**	Grab	Maximum concentration and monthly average
Total Aqueous Hydrocarbons, µg/L	***	15	1/batch**	Grab	Maximum concentration and monthly average
pH	(see above)		1/batch**	Grab	Maximum and minimum

Effluent Characteristics	Discharge Limitations		Sampling Frequency	Sampling Type	DMR Reported Values
	average monthly	daily maximum			
<p>* To be analyzed with Method 1664.</p> <p>** If a batch discharge spans more than 1 reporting (calendar) month, the analytical results for the batch shall be reported on the DMR for the later month.</p> <p>*** Report only.</p>					

B. Sanitary and Domestic Wastewater (Outfall 002) from the Christy Lee Platform

Such discharges, treated by a Marine Sanitation Device (MSD) followed by a dechlorination unit, shall be limited and monitored by the permittee as follows:

1. *Specific Limitations*

- a. Total flow shall not exceed 650 gallons per day (gpd).
- b. The discharge shall not, alone or in combination with other substances, cause a film, sheen or discoloration on the surface of the water or adjoining shorelines.
- c. No discharge of floating solids or foam.
- d. Kitchen oils from food preparation shall not be discharged.

2. *Monitoring Requirements*

MONITORING REQUIREMENTS			
Parameter	Sample Location	Sampling Frequency*	Type of Sample
Total Flow	Effluent	Daily	Estimate
Floating Solids	Effluent	Daily	Observation
Foam	Effluent	Daily	Observation
Oily Sheen	Effluent	Daily	Observation
*Monitoring shall only occur when discharging.			

C. Whole Effluent Toxicity (WET) Testing - Outfall 001

During the term of this permit, the permittee shall conduct semi-annual, spring/summer and fall/winter, chronic toxicity tests on 24-hour composite effluent samples. This testing shall be scheduled concurrently with the effluent sampling required in the permit.

1. Organisms and Protocols

- a. The permittee must conduct tests with a vertebrate and two invertebrates, as follows for the first suite of tests. After this screening period, monitoring shall be conducted using the most sensitive species. If no toxicity occurs in any test, any of the species may be used in further testing.

Vertebrate: Topsmelt, *Atherinops affinis* (survival and growth).

Invertebrates: A bivalve and an echinoderm (larval development).

- b. Every other year (first, third and fifth), the permittee shall re-screen once with the three species listed above and continue to monitor with the most sensitive species. Re-screening shall be conducted at a different time of year from the previous re-screening.
- c. The chronic toxicity of the effluent shall be estimated as specified in **Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms**, EPA/821/R-02/014, October 2002.

2. Definition of Toxicity

Chronic toxicity measures a sublethal effect (e.g., reduced growth, reproduction) in an effluent or ambient waters compared to that of the control organisms. The no observed effect concentration (NOEC) is the highest concentration of toxicant to which organisms are exposed in a chronic test, that causes no observable adverse effect on the test organisms (e.g., the highest concentration of toxicant to which the values for the observed responses are not statistically significant different from the controls).¹

Since data does not exist to support the development of a WET limit at

¹ If in the calculation of a NOEC, two tested concentrations cause statistically adverse effects but an intermediate concentration did not cause statistically significant effects, the test should be repeated or the lowest concentration must be used. For example, 6.25, 12.5, 25, 50 and 100% effluent concentrations are tested. The 12.5 and 50% concentrations are statistically significant but 25% is not significant. If the test is not repeated then the NOEC is 6.25%.

this time, a target level for chronic toxicity of 1.5 TU_c shall apply.

3. Quality Assurance

- a. A series of five dilutions and a control shall be tested. The dilution series shall be 12.5%, 25%, 50%, 66% and 100% effluent.
- b. Concurrent testing with reference toxicants shall also be conducted if organisms are not cultured in-house. Otherwise, monthly testing with reference toxicants is sufficient.
- c. If either of the reference toxicant test or the effluent tests do not meet all test acceptability criteria as specified in the manual, then the permittee must re-sample and re-test as soon as possible.
- d. Control and dilution water should be synthetic, moderately hard laboratory water, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water shall also be used. Receiving water may be used as control and dilution water upon notification of EPA and the Alaska Department of Environmental Conservation (ADEC). In no case shall water that has not met test acceptability criteria be used as dilution water.

4. Evaluation of Results

- a. The permittee shall submit to EPA a copy of the permittee's generic initial investigation workplan within 90 days of the effective date of this permit. This plan shall describe the steps the permittee intends to follow in the event that toxicity is detected, and should include at a minimum:
 - (1) A description of the investigation and evaluation techniques that would be used to identify potential causes/sources of toxicity, effluent variability, treatment system efficiency;
 - (2) A description of the facility's method of maximizing in-house treatment efficiency, good housekeeping practices, and a list of all chemicals used in operation of the facility;
 - (3) If a toxicity identification evaluation (TIE) is necessary, who

will conduct it (i.e., in-house or other)

- b. If the chronic toxicity target level, as defined, is detected then the permittee shall conduct tests of the next six discharges. Testing shall commence with the first discharge after receipt of the sample results of the exceedance. It is recognized that the next six discharges may not occur on a regular basis due to the intermittent nature of the discharge.
 - c. If implementation of the generic initial investigation workplan indicates the source of toxicity (for instance, a temporary plant upset), then only one additional test is necessary. If toxicity is detected in this test, then Part 4b. shall apply.
 - d. If the chronic toxicity trigger, as defined, is detected in any of the six additional tests, then, in accordance with the permittee's initial investigation workplan and, at a minimum, EPA manual EPA/600/2-88/070 [Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluation (TRE)], the permittee shall initiate a TRE within fifteen (15) days of receipt of the sample results of the exceedance.
 - e. If none of the six tests indicates toxicity, then the permittee may return to the normal testing frequency.
 - f. If the chronic toxicity trigger, as defined, is detected in any two of the six follow-up tests, then the permittee shall, in accordance with EPA acute and chronic manuals EPA/600/6-91/005F (Phase I), EPA/600/R-92/080 (Phase II), and EPA-600/R-92/081 (Phase III), initiate a TIE within 15 days.
 - g. If a TIE is triggered prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TIE.
5. Reporting
- a. Evaluation results--the permittee shall notify EPA and ADEC within fifteen (15) days of receipts of the results of
 - (1) the finding of the TRE/TIE or other investigation to identify the

cause(s) of toxicity;

- (2) the actions the permittee has taken or will take to mitigate the impact of the discharge, to correct the noncompliance and prevent the recurrence of toxicity; and
 - (3) where corrective actions including TRE or TIE have not been completed, expeditious schedule under which the corrective actions will be implemented.
- b. The permittee shall submit the results of the toxicity tests in TU_cs with the discharge monitoring reports (DMR) for the month in which the test results are received.
- c. The full report shall be submitted according to the following schedule:
- | <u>Toxicity Testing Period</u> | <u>Toxicity Results Due</u> |
|-----------------------------------|-----------------------------|
| March - September (Spring/Summer) | November 30 |
| November - February (Fall/Winter) | April 30 |
- d. Along with the results, the permittee shall include:
- (1) the dates of sample collection and initiation of each toxicity test;
 - (2) the type of activity occurring;
 - (3) the flow rate at the time of sample collection; and
 - (4) the chemical parameter monitoring required for the outfall(s) as defined in the permit.
- e. Test results for chronic test shall also be reported according to the chronic manual chapter on Report Preparation, and shall be attached to the DMR.

D. Best Management Practices (BMP) Plan

1. *Development.* The permittee shall during the term of this permit operate the facility in accordance with the BMP Plan or in accordance

with subsequent amendments to the BMP Plan. A BMP Plan shall be developed which prevents or minimizes the potential for the release of pollutants to waters of the United States through plant site runoff, spillage or leaks or erosion for all sites. The Plan shall be developed within 60 days of the effective date of the permit. The Plan shall be implemented within 120 days of the effective date of this permit. The permittee shall also amend this Plan to incorporate practices which shall achieve the objectives and specific requirements listed below. A copy shall be kept on-site and shall be sent to EPA and ADEC upon completion.

2. *Purpose.* Through implementation of the BMP Plan the permittee shall prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States through normal operations and ancillary activities.
3. *Objectives.* The permittee shall develop and amend the BMP Plan consistent with the following objectives for the control of pollutants.
 - a. The number and quantity of pollutants and the toxicity of the effluent generated, discharged or potentially discharged at the facility shall be minimized by the permittee to the extent feasible by managing each influent waste stream in the most appropriate manner.
 - b. Under the BMP Plan, and any Standard Operating Procedures (SOPs) included in the BMP Plan, the permittee shall ensure proper operation and maintenance of the treatment facility.
4. *Requirements.* The BMP Plan shall be consistent with the objectives in Part 3, above, and the general guidance contained in the publication entitled "Guidance Manual for Developing Best Management Practices" (U.S. EPA, 1993) or any subsequent revisions to the guidance document. The BMP Plan shall:
 - a. Be documented in narrative form, and shall include any necessary plot plans, drawings or maps, and shall be developed in accordance with good engineering practices. The BMP Plan shall be organized and written with the following structure:
 - (1) Name and location of the facility.

- (2) A statement of BMP policy.
 - (3) Structure, functions, and procedures of the Best Management Practices Committee.
 - (4) Specific management practices and standard operating procedures to achieve the above objectives, including, but not limited to, the following:
 - (a) modification of equipment, facilities, technology, processes, and procedures, and
 - (b) improvement in management, inventory control, materials handling or general operational phases of the facility.
 - (5) Risk identification and assessment.
 - (6) Reporting of BMP incidents.
 - (7) Materials compatibility.
 - (8) Good housekeeping.
 - (9) Preventative maintenance.
 - (10) Inspections and records.
 - (11) Security.
 - (12) Employee training.
- b. Include the following provisions concerning BMP Plan review:
- (1) Be reviewed by appropriate engineering and managerial staff.
 - (2) Be reviewed and endorsed by the permittee's BMP Committee.

- (3) Include a statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in this permit. The statement shall be certified by the dated signatures of each BMP Committee member.
 - c. Establish specific best management practices to meet the objectives identified in Part 3 this section, addressing each component or system capable of generating or causing a release of significant amounts of pollutants, and identifying specific preventive or remedial measures to be implemented.
 - d. Establish specific best management practices or other measures which ensure that the following specific requirements, if necessary, are met:
 - (1) Provide for the use of diffusers or other energy-dissipating structures at the terminus of the discharge pipes to minimize or abate erosion resulting from the discharge.
 - (2) Provide for the construction and use of settling ponds or basins as necessary to comply with the effluent limits of the permit.
 - (3) Reflect requirements under CWA § 402(p) and the storm water regulations at 40 CFR §§ 122.26 and 122.44, and otherwise eliminate, to the extent practicable, contamination of storm water run-off.
5. *Documentation.* The permittee shall maintain a copy of the BMP Plan at the facility and shall make the plan available to EPA or ADEC upon request. All offices of the permittee which are required to maintain a copy of the NPDES permit shall also maintain a copy of the BMP Plan.
6. *BMP Plan Modification.* The permittee shall amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to the receiving waters. The permittee shall also amend the BMP Plan, as appropriate, when operations covered by the BMP Plan change. Any such changes to the BMP Plan shall be consistent with the objectives and specific requirements listed above. All changes in the BMP Plan shall be reviewed by the

appropriate engineering and managerial staff then submitted to EPA and ADEC.

7. *Modification for Ineffectiveness.* At any time, if the BMP Plan proves to be ineffective in achieving the general objective of preventing and minimizing the generation of pollutants and their release and potential release to the receiving waters and/or the specific requirements above, the permit and/or the BMP Plan shall be subject to modification to incorporate revised BMP requirements.

E. Quality Assurance Requirements

1. The permittee shall develop a Quality Assurance Plan. The primary purpose of the Quality Assurance Plan shall be to assist in planning for the collection and analysis of samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the permittee shall use the EPA approved quality assurance, quality control, and chain-of-custody procedures described in EPA QAVR-5 EPA *Requirements for Quality Assurance Project Plans* and EPA QA/G-5 *Guidance on Quality Assurance Project Plans*. The following references may be helpful in preparing the Quality Assurance Plan for this permit: *Quality and Data Management Program*, March 1988 and *The Volunteer Monitors Guide to Quality Assurance Project Plans* EPA 841-B-96-003, September 1996.
3. The plan shall be submitted to EPA for review and approval, and to ADEC for review, within 90 days of the effective date of this NPDES permit.
4. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee, shall be specified in the Quality Assurance Plan.
5. The permittee shall require the laboratory director of each laboratory providing measurement results in support of this permit to sign and submit to EPA the following statement on a monthly basis with the DMR:

I certify that this data is in compliance with

requirements under 40 CFR §136 and other analytical requirements specified in NPDES permit No. AK-000039-6.

Signature: _____ Date: _____

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS.

- A. Representative Sampling.** All samples for monitoring purposes shall be representative of the monitored activity, 40 CFR 122.41(j). To determine compliance with permit effluent limitations, "grab" samples shall be taken as established under Permit Part II. Effluent samples shall be collected prior to the effluent entering the receiving water.
- B. Reporting of Monitoring Results.** Monitoring results shall be summarized each month and reported on EPA Form 3320-1 (Discharge Monitoring Report) and submitted to the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, NPDES Compliance Unit OW-133, Seattle, Washington 98101-3188, no later than **the 10th of the month of the following calendar month**. If there is no wastewater discharge, the Permittee shall mark the DMR appropriately and submit the form as required above. Reports shall also be submitted to ADEC, Watershed Management Section, 555 Cordova Street, Anchorage, Alaska 99501.
- C. Monitoring Procedures.** Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- D. Additional Monitoring by the Permittee.** If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. Records Contents.** Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

F. Retention of Records. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or ADEC at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site for the duration of activity at the permitted location.

G. Notice of Noncompliance Reporting.

1. Any noncompliance which may endanger health or the environment shall be reported within 24 hours of the Permittee becoming aware of the circumstance. The report may be made by calling the NPDES Compliance Unit at (206) 553-1846. A written submission shall also be provided within 5 days of time after the Permittee becomes aware of the occurrence.
2. The following occurrences of noncompliance shall also be reported in writing within 5 days after the Permittee becomes aware of the circumstances:
 - a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Permit Part III.G., **Bypass of Treatment Facilities.**); or
 - b. Any upset which exceeds any effluent limitation in the permit (See Permit Part III.H., **Upset Conditions.**).
 - c. Any violation of a maximum daily discharge limitation for any of the pollutants listed in Permit Part I.A. and I.B.

3. *The written submission shall contain:*
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 4. Reports shall be submitted to the addresses in Permit Part II.B.,
Reporting of Monitoring Results.
- H. Other Noncompliance Reporting.** Instances of noncompliance not required to be reported in Permit Part II.G., above, shall be reported at the time that monitoring reports for Permit Part II.A. are submitted. The reports shall contain the information listed in Permit Part II.G.3.
- I. Inspection and Entry.** The Permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 3. At reasonable times, inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply.** The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The Permittee shall give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions.**
1. *Civil and Administrative Penalties.* Sections 309(d) and 309(g) of the Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil penalty, not to exceed \$27,500 per day for each violation or an Administrative Penalty not to exceed \$11,000 per violation.
 2. *Criminal Penalties:*
 - a. *Negligent Violations.* The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both.
 - b. *Knowing Violations.* The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or by both.
 - c. *Knowing Endangerment.* The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more

than 15 years, or both. A person that is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.

- d. **False Statements.** The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

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

- C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. **Duty to Mitigate.** The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. **Proper Operation and Maintenance.** The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. **Removed Substances.** Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner so as to prevent any pollutant from such materials from entering navigable waters.

G. Bypass of Treatment Facilities.

1. *Bypass not exceeding limitations.* The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
2. *Notice:*
 - a. *Anticipated bypass.* If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. *Unanticipated bypass.* The Permittee shall submit notice of an unanticipated bypass as required under Permit Part II.G., **Notice of Noncompliance Reporting.**
3. *Prohibition of bypass.*
 - a. Bypass is prohibited and the Director or ADEC may take enforcement action against a Permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The Permittee submitted notices as required under paragraph 2 of this section.
 - b. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC

determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

1. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 2. *Conditions necessary for a demonstration of upset.* A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - b. The permitted facility was being properly operated at the time;
 - c. The Permittee submitted notice of the upset as required under Permit Part II.G., **Notice of Noncompliance Reporting**; and
 - d. The Permittee complied with any remedial measures required under Permit Part III.D., **Duty to Mitigate**.
 3. *Burden of proof.* In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.
- I. Toxic Pollutants.** The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

IV. GENERAL REQUIREMENTS

A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director and ADEC as soon as the Permittee knows of, or has reason to believe:

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

B. Planned Changes. The Permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Permit Part V.A.1.
- C. Anticipated Noncompliance.** The Permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- D. Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- E. Duty to Reapply.** If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- F. Duty to Provide Information.** The Permittee shall furnish to the Director and ADEC, within a reasonable time, any information which the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this permit.
- G. Other Information.** When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit such facts or information.
- H. Signatory Requirements.** All applications, reports or information submitted to the Director and ADEC shall be signed and certified.
1. All permit applications shall be signed as follows:

- a. For a corporation: by a responsible corporate officer.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- a. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and
 - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph IV.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.H.2. must be submitted to the Director and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the

person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- I. **Availability of Reports.** Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.
- K. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. **Transfers.** This permit may be automatically transferred to a new Permittee if:
 - 1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
 - 2. The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - 3. The Director does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the

permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

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

O. Reopener Clause

This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the permittee) or upon EPA initiative. However, permits may only be modified, revoked or reissued, or terminated for the reasons specified in 40 CFR §122.62 or 122.64, and 40 CFR §124.5. This includes new information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance including future monitoring results. All requests for permit modification must be addressed to EPA in writing and must contain facts or reasons supporting the request.

V. DEFINITIONS

- A. *1/batch* means once per discharge event.
- B. *3/batch* means three times per discharge event.
- C. *ADEC* means the Alaska Department of Environmental Conservation.
- D. *Average Monthly discharge limitation* means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- E. *Ballast water* means seawater added to tankers to maintain proper ship stability when not loaded with cargo.
- F. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
- G. *Daily discharge* means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
- H. *Discharge event* means the interval between the beginning and the end of the intermittent discharge of treated ballast water.

- I. *Domestic Wastewater* means materials discharged from showers, sinks, safety showers, eye-wash stations, hand-wash stations, fish-cleaning stations, galleys and laundries.
- J. *EPA* means the Environmental Protection Agency.
- K. *GPD* means Gallons per day.
- L. A *Grab* sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
- M. *Maximum daily discharge* limitation means the highest allowable "daily discharge."
- N. *mg/L* means milligram per liter.
- O. *The Plan* means the Best Management Practices Plan.
- P. *Sanitary wastewater* means human body waste discharge from toilets and urinals.
- Q. *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- R. *TAH* means Total Aromatic Hydrocarbons determined by EPA Method 602 (plus xylenes).
- S. *TAqH* means Total Aqueous Hydrocarbons determined by a combination of EPA Method 602 (plus xylenes) and EPA Method 610.
- T. *TSS* means Total Suspended Solids.
- U. *µg/L* means microgram per liter.
- V. *Upset* means an exception incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error,

improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.