



## Schedule of Submissions

The following is a summary of some of the items the permittee must complete and/or submit to EPA during the term of this permit:

<b>Item</b>	<b>Due Date</b>
1. Discharge Monitoring Reports (DMR)	DMRs are due monthly and must be postmarked on or before the 10 <sup>th</sup> day of the month following the monitoring month.
2. Quality Assurance Plan (QAP)	The permittee must provide EPA and the Alaska Department of Environmental Conservation (ADEC) with written notification that the Plan has been developed and implemented within 180 days after the effective date of the final permit (see I.D.). The Plan must be kept on site and made available to EPA and ADEC upon request.
3. Best Management Practices (BMP) Plan	The permittee must provide EPA and ADEC with written notification that the Plan has been developed and implemented within 90 days after the effective date of the final permit (see I.E.). The Plan must be kept on site and made available to EPA and ADEC upon request.
4. NPDES Application Renewal	The application must be submitted at least 180 days before the expiration date of the permit (see Permit Part IV.B.).
5. Surface Water Monitoring Report	The Report must be submitted with the next permit application (see above).
6. Twenty-Four Hour Notice of Noncompliance Reporting	The permittee must report certain occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances. (see Permit Parts II.G. and I.B.2.)

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## I. Limitations and Monitoring Requirements

### A. Discharge Authorization

During the effective period of this permit, the permittee is authorized to discharge pollutants from the outfall specified herein to French Creek, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

### B. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges from outfall 001 as specified in Table 1, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

<b>Table 1: Effluent Limitations and Monitoring Requirements</b>						
Parameter	Effluent Limitations			Monitoring Requirements		
	Average Monthly Limit	Average Daily Limit	Maximum Daily Limit	Sample Location	Sample Frequency	Sample Type
Flow, mgd	5		10	Effluent	1/day	measure
Temperature, °C		15	22	Effluent	1/day	measure
BOD <sub>5</sub> , mg/L	---	---	---	Effluent	See note 1	grab
TSS, mg/L	---	---	---	Effluent	See note 1	grab
COD, mg/L	---	---	---	Effluent	See note 1	grab
TOC, mg/L	---	---	---	Effluent	See note 1	grab
Oil and grease, mg/L	---	---	---	Effluent	See note 1	Grab

<b>Table 1: Effluent Limitations and Monitoring Requirements</b>						
Parameter	Effluent Limitations			Monitoring Requirements		
	Average Monthly Limit	Average Daily Limit	Maximum Daily Limit	Sample Location	Sample Frequency	Sample Type
Total Ammonia as N, mg/L	---	---	---	Effluent	See note 2	Grab
Notes:						
1 – Sample once every 2 months when discharging during the 4 <sup>th</sup> year of the permit (Summer 2011)						
2 – Sample once per month when discharging during the last 24 months of the permit.						

2. The permittee must report within 24 hours any violation of the maximum daily limits for temperature. Violations of all other effluent limits are to be reported at the time that discharge monitoring reports are submitted (See II.B. and II.H.).
3. There must be no discharge of any pollutants that cause floating oil on the surface or produce discoloration or a film or visible sheen on the surface of the receiving water
4. The pH must not be less than 6.5 standard units (s.u.) nor greater than 8.5 s.u.
5. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.
6. Polychlorinated biphenyl compounds, such as those used in transformers, shall not be discharged.
7. There shall be no discharge of total residual chlorine or free available chlorine.
8. Minimum Levels. For all effluent monitoring, the permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation.

### **C. Surface Water Monitoring**

The permittee must conduct surface water monitoring starting the first month of discharge after the effective date of the permit and continue during months of discharge for the duration of the permit. The program must meet the following requirements:

1. Eielson AFB shall use Monitoring Points 4 (upstream) and 7 (downstream) established during the Eielson AFB Central Heating and Power Plant Cooling Water Discharge study (October 2005).

2. To the extent practicable, surface water sample collection must occur on the same day as effluent sample collection.
3. All ambient samples must be grab samples, unless otherwise indicated.
4. The flow rate must be measured as near as practicable to the time that other ambient parameters are sampled.
5. Samples must be analyzed for the parameters listed in Table 2, and must achieve acceptable method detection limits (MDLs).

<b>Table 2: Surface Water Monitoring Requirements</b>			
<b>Parameter</b>	<b>Sample Location</b>	<b>Sample Frequency</b>	<b>Sample Type</b>
Flow, mgd	MP4 and MP7	1/month <sup>1</sup>	measure
Temperature, °C	MP4 and MP7	1/month	measure
Ammonia, mg/L	MP7	1/month <sup>2</sup>	Grab
pH, standard units	MP7	1/months	Grab

Note:

1. After calendar years of compliance with a level of 15° C at this point, the permittee may request that monitoring be reduced to once every 2 months. This change must be approved by EPA and ADEC.
2. Monitoring required in the 4<sup>th</sup> and 5<sup>th</sup> years of the permit only.

6. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Permit Part I.D., "Quality Assurance Plan."
7. Surface water monitoring results must be submitted to EPA and ADEC with the application for renewal of this permit (see IV.B.). At a minimum, the report must include the following:
  - a) Dates of sample collection and analyses.
  - b) Results of sample analysis.
  - c) Relevant quality assurance/quality control (QA/QC) information.

#### **D. Quality Assurance Plan (QAP)**

The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The permittee must submit written notice to EPA and ADEC that the Plan has been developed and implemented within 180 days of the effective date of this permit. Any existing QAPs may be modified for compliance with this section.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.
2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format that is specified in these documents.
3. At a minimum, the QAP must include the following:
  - a) Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.
  - b) Map(s) indicating the location of each sampling point.
  - c) Qualification and training of personnel.
  - d) Name(s), address(es) and telephone number(s) of the laboratories used by or proposed to be used by the permittee.
4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.
5. Copies of the QAP must be kept on site and made available to EPA and/or ADEC upon request.

#### **E. Best Management Practices (BMP) Plan**

The permittee shall review and update, as necessary, its BMP Plan. The BMP Plan shall incorporate practices to achieve the objectives and specific requirements listed below. If an existing Stormwater Pollution Prevention Plan (SWPPP) addresses the requirements below, it can be used instead of the BMP Plan. If the SWPPP does not address all the requirements, it can be referenced for those parts that do. The permittee must submit written notice to EPA and ADEC that the Plan has been developed and implemented or that the SWPPP is adequate to fulfill this requirement within 90 days of the effective date of this permit. The permittee shall fully comply with the BMP Plan along with any amendments.

1. Objectives. The BMP Plan shall be consistent with the following objectives for the control of pollutants:
  - a) The number and quantity of pollutants and the toxicity of effluent generated or 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.

c) The permittee shall establish specific objectives for the control of pollutants by conducting the following evaluations:

i. Each facility component or system shall be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as storm water or snow melt runoff, etc. The examination shall include all normal operations and ancillary activities including truck transport system, material storage areas, in-plant transfer, process and material handling areas, loading or unloading operations, other site runoffs, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

ii. Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances to result in significant amounts of pollutants reaching surface waters, the program should include a prediction of the direction, rate of flow, and total quantity of pollutants which could be discharged from the facility as a result of each condition or circumstance.

2. Requirements. The BMP Plan shall be consistent with the general guidance contained in the publications entitled "Best Management Practices Guidance Document" (EPA 1981), and "Storm Water Management for Industrial Activities" (EPA, 1992) or any subsequent revisions to the above guidance documents. The BMP Plan shall comply with the following conditions:

a) The BMP Plan shall be documented in narrative form, and shall include any necessary plat plans, drawings or maps.

b) The BMP Plan shall be developed in accordance with good engineering practices.

c) The BMP Plan shall be organized and written with the following structure:

i. Name and location of the facility.

ii. Statement of BMP policy.



iii. Structure, functions, and procedures of the Best Management Practices Committee.

iv. Specific management practices and operating procedures to achieve the BMP objectives, including, but not limited to, the following:

- (1) modification of equipment, facilities, technology, processes, and procedures,
- (2) statement of BMP policy,
- (3) substitution of materials,
- (4) improvement in management, inventory control, materials handling or general operational phases of the facility,
- (5) risk identification and assessment,
- (6) materials compatibility,
- (7) good housekeeping,
- (8) preventative maintenance,
- (9) inspections and records,
- (10) security,
- (11) employee training.

3. The BMP Plan shall include the following provisions concerning BMP Plan review:

a) Be reviewed by plant engineering staff and the plant manager in January and June of each year.

b) 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 the plant engineering staff and the plant manager.

4. Establish specific best management practices to meet the objectives identified in the Objectives section above, address each component or system capable of generating or causing a release of significant amounts of pollutants, and identify specific preventative or remedial measures to be implemented.

5. Establish specific best management practices or other measures which ensure that the following specific requirements are met:

a) Ensure that berms, including any pond walls, ditches, dikes, dams and similar water retention structures shall be considered in a manner such that they reject the passage of unwanted water.

- b) Ensure that measures are taken such that pollutant materials removed from the process water and wastewater streams will be retained and not discharged to waters of the United States.
- c) Ensure that all water control devices, including but not limited to structures and berms, and all solids retention structures such as berms, dikes, and pond structures and dams, shall be maintained to continue their effectiveness and protect from unexpected and catastrophic failure.
- d) Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA) and the Alaska Solid Waste Management Regulations (18 AAC 60). Management practices required under RCRA regulations shall be referenced in the BMP Plan.
- e) Reflect requirements for Spill Prevention, Control, and Countermeasure (SPCC) plans under Section 311 of the CWA and 40 CFR Part 112, and may incorporate any part of such plans into the BMP Plan by reference.
- f) Ensure that all storm water/snow melt runoff is handled according to the requirements outlined in the SWPPP.
- g) The plan shall describe measures that prevent or minimize fugitive dust emissions from coal handling areas. At a minimum, the facility shall employ oil/water spraying (or its equivalent) of coal piles to prevent fugitive dust emissions. The facility shall establish procedures to minimize off-site tracking of coal dust. To prevent off-site tracking the facility may consider specially designed tires, or washing vehicles in a designated area before they leave the site, and controlling wash water.
- h) The plan shall describe measures that prevent or minimize spills and / or contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the facility shall:
  - i. Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container.
  - ii. Develop procedures to deal with leakage or spillage from vehicles or containers, and ensure that proper protective measures are available for personnel and environment.
- i) The plan shall describe measures that prevent or minimize spills and/or contamination of storm water runoff from fuel oil unloading areas. At a minimum the facility shall use the following measures or their equivalent:
  - i. Use containment curbs in unloading areas.

- ii. During deliveries station personnel familiar with spill prevention and response procedures shall be present to ensure that any leaks or spills are immediately contained and cleaned up.
  - iii. Use spill and overflow protection (drip pans and other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at the connectors).
- j) The plan shall describe measures that prevent or minimize spills and/or the contamination of storm water runoff from chemical loading/unloading areas. At a minimum the permittee shall use the following measures or their equivalent:
- i. Use containment curbs at chemical loading/unloading areas to contain spills.
  - ii. During deliveries, station personnel familiar with spill prevention and response procedures shall be present to ensure that any leaks or spills are immediately contained and cleaned up.

Where practicable chemical loading/unloading areas should be covered.

- k) The plan shall describe measures that prevent or minimize spills and/or the contamination of storm water runoff from loading and unloading areas. The facility may consider covering the loading area, minimizing storm water run-on to the loading area by grading, berming, or curbing the area around the loading area to direct storm water away from the area, or locate the loading/unloading equipment and vehicles so that leaks can be contained in existing containment and flow diversion systems.
- l) The plan shall describe measures that prevent or minimize spill and/or contamination of storm water runoff from above ground liquid storage tanks. At a minimum the facility shall employ the following measures or their equivalent:
- i. Use protective guards around tanks;
  - ii. Use containment curbs;
  - iii. Use spill and overflow protection (drip pans and other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at the connectors); and
  - iv. Use dry cleanup methods.
- m) The plan shall describe measures that prevent or minimize spills and/or contamination of storm water runoff from liquid storage tanks. At a minimum the facility shall employ the following measures or their equivalent:

- i. Comply with applicable State and Federal laws; and
  - ii. Containment berms.
- n) The plan shall describe measures to reduce the potential for an oil spill, or a chemical spill. At a minimum the structural integrity of all above ground tanks, pipelines, pumps, and other related equipment shall be visually inspected on a weekly basis.
- o) The plan shall describe measures to reduce the potential for storm water contamination in switchyard areas. The facility may consider level grades and gravel surfaces to retard flows and limit the spread of spills; collection of storm water runoff in perimeter ditches; compliant with SPCC regulations.
- p) All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing, and overall integrity of the body or container. Unacceptable vehicles shall be repaired as soon as practicable.
- q) Plant procedures shall be established to reduce and/or control the tracking of ash or residue from ash loading areas including, where practicable, requirements to clear the ash building floor and immediately adjacent roadways of spillage, debris, and excess water before each loaded vehicle departs.
- r) The plan shall describe measures that prevent or minimize contamination of storm water runoff from areas adjacent to disposal ponds or landfills. The facility shall develop procedures to:
- i. Reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles.
  - ii. Reduce ash residue on exit roads leading into and out of residue handling areas.
- s) The plan shall describe measures that prevent or minimize contamination of storm water from material storage areas (including areas used for temporary storage of miscellaneous products, and construction materials stored in lay down areas). The facility may consider flay yard grades, runoff collection in graded swales or ditches, erosion protection measures (e.g. concrete chutes, riprap, stilling basins) at steep Outfall sites, or covering lay down areas, storing the materials indoors, covering the materials with temporary covering made of polyethylene, polyurethane, polypropylene, or Hypalon, or minimizing storm water run-on by enclosing the area or building a berm around the area.
6. The permittee shall maintain a copy of the BMP Plan on site and shall make it available to EPA and ADEC upon request.

7. The permittee shall amend the BMP Plan whenever there is a change in the facility design, construction, operations, or maintenance which materially affects the facility's potential for discharge of significant amounts of hazardous or toxic pollutants into the waters of the United States.
8. If the BMP Plan proves to be ineffective as determined by the permittee, EPA, or ADEC, in achieving the general objective of preventing the release of significant amounts of pollutants to waters of the United States and the specific objectives and requirements listed under this section, the permit and/or the BMP Plan shall be subjected to modification to incorporate the revised BMP requirements.

## **II. Monitoring, Recording and Reporting Requirements**

### **A. Representative Sampling (Routine and Non-Routine Discharges)**

Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in Permit Part I.B. of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with Permit Part II.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with Permit Part II.D ("Additional Monitoring by Permittee").

### **B. Reporting of Monitoring Results**

The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 10th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Permit Part IV.E. ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Compliance and Enforcement, with copies to ADEC at the following addresses:

US EPA Region 10  
Attn: PCS Data Entry Team  
1200 Sixth Avenue, OCE-133  
Seattle, Washington 98101

ADEC Division of Water  
555 Cordova St.  
Anchorage, Alaska, 99501

### **C. Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5.

### **D. Additional Monitoring by Permittee**

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

Upon request by EPA, the permittee must submit results of any other sampling, regardless of the test method used.

### **E. Records Contents**

Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the names of 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 must 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, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of EPA or ADEC at any time.

### **G. Twenty-four Hour Notice of Noncompliance Reporting**

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
  - a) any noncompliance that may endanger health or the environment;
  - b) any unanticipated bypass that exceeds any effluent limitation in the permit (See Permit Part III.F., "Bypass of Treatment Facilities");
  - c) any upset that exceeds any effluent limitation in the permit (See Permit Part III.G., "Upset Conditions"); or
  - d) any violation of a maximum daily discharge limitation for applicable pollutants identified by Permit Part I.B.2.
  - e) any overflow prior to the treatment works, whether or not such overflow endangers health or the environment or exceeds any effluent limitation in the permit.
2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. The written submission must 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.
  - e) if the noncompliance involves an overflow prior to the treatment works, an estimate of the quantity (in gallons) of untreated overflow.
3. The Director of the Office of Compliance and Enforcement may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.
4. Reports must be submitted to the addresses in Permit Part II.B ("Reporting of Monitoring Results").

## **H. Other Noncompliance Reporting**

The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Permit Part II.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Permit Part II.G.2 ("Twenty-four Hour Notice of Noncompliance Reporting").

## I. Changes in Discharge of Toxic Pollutants

The permittee must notify the Director of the Office of Water and Watersheds and ADEC as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a **routine or frequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
  - a) One hundred micrograms per liter (100 ug/l);
  - b) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and 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 EPA in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur that would result in any discharge, on a **non-routine or infrequent** basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following “notification levels”:
  - a) Five hundred micrograms per liter (500 ug/l);
  - b) One milligram per liter (1 mg/l) for antimony;
  - c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
  - d) The level established by EPA in accordance with 40 CFR 122.44(f).
3. The permittee must submit the notification to Office of Water and Watersheds at the following address:

US EPA Region 10  
Attn: NPDES Permits Unit Manager  
1200 Sixth Avenue, OWW-130  
Seattle, Washington 98101

## 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.

## **B. Penalties for Violations of Permit Conditions**

1. **Civil and Administrative Penalties.** Pursuant to 40 CFR Permit Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$32,500 per day for each violation).
2. **Administrative Penalties.** Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$32,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$157,500).
3. **Criminal Penalties:**
  - a) **Negligent Violations.** The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

- b) **Knowing Violations.** Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- c) **Knowing Endangerment.** Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 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. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- d) **False Statements.** The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

### **C. Need To Halt or Reduce Activity not a Defense**

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

#### **D. Duty to Mitigate**

The permittee must 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.

#### **E. Proper Operation and Maintenance**

The permittee must 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 the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

#### **F. Bypass of Treatment Facilities**

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that 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 Part.
2. Notice.
  - a) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior written notice, if possible at least 10 days before the date of the bypass.
  - b) Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Permit Part II.G ("Twenty-four Hour Notice of Noncompliance Reporting").
3. Prohibition of bypass.
  - a) Bypass is prohibited, and the Director of the Office of Compliance and Enforcement may take enforcement action against the permittee for a bypass, unless:
    - (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (ii) 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 that

occurred during normal periods of equipment downtime or preventive maintenance; and

- (iii) The permittee submitted notices as required under paragraph 2 of this Part.
- b) The Director of the Office of Compliance and Enforcement may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this Part.

## **G. 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 permittee meets the requirements of paragraph 2 of this Part. 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. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b) The permitted facility was at the time being properly operated;
  - c) The permittee submitted notice of the upset as required under Permit Part II.G, "Twenty-four Hour 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.

## **H. Toxic Pollutants**

The permittee must 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.

## **I. Planned Changes**

The permittee must give written notice to the Director of the Office of Water and Watersheds as specified in Permit Part II.I.4. and ADEC as soon as

possible of any planned physical alterations or additions to the permitted facility whenever:

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 that are not subject to effluent limitations in this permit.

#### **J. Anticipated Noncompliance**

The permittee must give written advance notice to the Director of the Office of Compliance and Enforcement and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

#### **K. Reopener**

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 but not limited to future monitoring results. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request.

### **IV. General Provisions**

#### **A. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### **B. Duty to Reapply**

If the permittee intends 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. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the

Regional Administrator, the permittee must submit a new application at least 180 days before the expiration date of this permit.

### **C. Duty to Provide Information**

The permittee must furnish to EPA and ADEC, within the time specified in the request, any information that EPA 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 must also furnish to EPA or ADEC, upon request, copies of records required to be kept by this permit.

### **D. Other Information**

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to EPA or ADEC, it must promptly submit the omitted facts or corrected information in writing.

### **E. Signatory Requirements**

All applications, reports or information submitted to EPA and ADEC must be signed and certified as follows.

1. All permit applications must 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, Indian tribe, 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 EPA or ADEC must 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;
  - b) The authorization specifies 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; and
  - c) The written authorization is submitted to the Director of the Office of Compliance and Enforcement and ADEC.

3. Changes to authorization. If an authorization under Permit Part IV.E.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 Permit Part IV.E.2. must be submitted to the Director of the Office of Compliance and Enforcement 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 Part must 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.”

#### **F. Availability of Reports**

In accordance with 40 CFR 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

#### **G. Inspection and Entry**

The permittee must allow the Director of the Office of Compliance and Enforcement, EPA Region 10; 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. Inspect at reasonable times 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.

#### **H. 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 persons or property or invasion of other private rights, nor any infringement of federal, tribal, state or local laws or regulations.

#### **I. Transfers**

This permit is not transferable to any person except after written notice to the Director of the Office of Water and Watersheds as specified in part II.I.4. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

#### **J. State Laws**

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

#### **V. Definitions**

1. "Act" means the Clean Water Act.
2. "ADEC" means Alaska Department of Environmental Conservation.
3. "Administrator" means the Administrator of the EPA, or an authorized representative.



4. "Average Daily Limit" means the highest allowable average of measurements taken over a calendar day, calculated as the sum of all measurements taken during a calendar day divided by the number of measurement taken during that day.
5. "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.
6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
7. "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.
8. "Director of the Office of Compliance and Enforcement" means the Director of the Office of Compliance and Enforcement, EPA Region 10, or an authorized representative.
9. "Director of the Office of Water and Watersheds" means the Director of the Office of Water and Watersheds, EPA Region 10, or an authorized representative.
10. "DMR" means discharge monitoring report.
11. "EPA" means the United States Environmental Protection Agency.
12. "Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.
13. "Maximum daily discharge limitation" means the highest allowable "daily discharge."
14. "NPDES" means National Pollutant Discharge Elimination System.
15. "QA/QC" means quality assurance/quality control.
16. "Regional Administrator" means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.
17. "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.

18. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.