



FACT SHEET

NPDES Permit Number: AKS-053414
Date: October 18, 2004
Public Comment Period Expiration Date: December 2, 2004
Technical Contact: Misha Vakoc
(206) 553-6650 or (800) 424-4372
vakoc.misha@epa.gov

**The U.S. Environmental Protection Agency (EPA) Proposes to Issue a
National Pollutant Discharge Elimination System (NPDES)
Permit for Storm Water Discharges To:**

Fairbanks North Star Borough

EPA Requests Public Comment on the Proposed Permit

EPA Region 10 proposes to issue a National Pollutant Discharge Elimination System (NPDES) permit, after consultation with the State of Alaska, for storm water discharges from all municipal separate storm sewer system (MS4) outfalls owned and operated by the Fairbanks North Star Borough. Permit requirements are based on Section 402(p) of the Clean Water Act, and EPA's "Phase II" regulations for municipal storm water discharges (64 Fed. Reg. 68722, December 8, 1999; and 40 CFR Part 122).

The draft permit requires the development and implementation of a municipal storm water management program (SWMP), and outlines the types of best management practices to be used by the applicant to control pollutants in its storm water discharges to the maximum extent practicable. Annual reporting is required to provide information on the status of the SWMP implementation. The draft NPDES permit establishes conditions, prohibitions and management practices for discharges of storm water from the storm sewer system owned and operated by the Fairbanks North Star Borough.

This fact sheet includes:

- information on public comment, public hearing and appeal procedures;

- a description of the applicant's municipal separate storm sewer systems; and
- a description of the permit requirements for the local storm water management program, schedules of compliance, and other conditions.

The State of Alaska Certification.

EPA requests that the Alaska Department of Environmental Conservation certify this NPDES permit under provisions of Section 401 of the Clean Water Act. EPA may not issue the NPDES permit until the state has granted, denied or waived certification. The State of Alaska has provided a draft certification for the permit (see Appendix C). For more information about this review, please contact Ms. Mel Langdon, at (907) 269-6283.

Public Comment

EPA will consider all comments before issuing the final permit. Comments should include a name, address, phone number, and a concise statement of basis of comment and relevant facts upon which the comment is based. All written comments should be addressed to the Office of Water Director and can be submitted by mail to U.S. EPA, Region 10, 1200 Sixth Avenue (OWW-130), Seattle, WA 98101; alternatively, comments can also be submitted by facsimile at (206) 553-0165; or submitted via e-mail to vakoc.misha@epa.gov.

Persons wishing to comment on the State Certification should submit written comments by the public notice expiration date indicated at the beginning of this fact sheet to: Alaska Department of Environmental Conservation, Water Division, Non-point Source Water Pollution Control, Attn: Mel Langdon, Program Manager for Storm Water and Wetlands, 555 Cordova Street, Anchorage, AK 99501, or Mel.Langdon@dec.state.ak.us.

Requests for Public Hearing

Persons wishing to request a public hearing must do so, in writing, by the expiration date of this public notice. A request for a public hearing must state the nature of the issues to be raised as they relate to the permit, as well as the requester's name, address, and telephone number. Based on the requirements of 40 CFR § 124.12, EPA will hold a public hearing if there is a significant degree of public interest in the proposed permit. All comments and requests for public hearing must be submitted to EPA as described in the "Public Comments" section of the attached public notice.

After the public comment period expires and all significant comments have been considered, EPA's regional Director of the Office of Water will make a final decision regarding permit issuance. If no comments requesting a change in the draft permit are received, the tentative conditions in the draft permit become final, and the permit will become effective upon issuance. If significant comments are received, EPA will address the comments and issue the permit along with a response to comments. The permit will become effective 33 days after the issuance date, unless the permit is appealed to the Environmental Appeals Board within 30 days.

Documents Are Available for Review

The draft NPDES permit and related documents can be reviewed or obtained by contacting EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday (see address below). The draft permit and fact sheet can also be found by visiting the Region 10 website at <http://www.epa.gov/region10/stormwater.htm>. Reference materials cited in the fact sheet are available in electronic format or in hard copy. To request copies and other information, please contact the NPDES Permits Unit at:

United States Environmental Protection Agency, Region 10
1200 Sixth Avenue, OWW-130
Seattle, Washington 98101
(206) 553-6650 or
1-800-424-4372 x6650 (toll free in Alaska, Idaho, Oregon, and Washington)

The draft permit and fact sheet are also available at:

U.S. EPA Alaska Operations Office
Federal Building
222 West 7th Avenue
Anchorage, Alaska 99513-7588
(800) 781-0983 (toll free in Alaska only)

Alaska Department of Environmental Conservation
Water Division, Non-Point Source Water Pollution Control
610 University Avenue
Fairbanks, Alaska 99709
(907) 451-2360

For technical questions regarding the permit or fact sheet, contact Misha Vakoc at the phone number or e-mail address at the beginning of this fact sheet. Those with impaired hearing or speech may contact a TDD operator at 1-800-833-6384 (ask to be connected to Misha Vakoc at the above phone number). Additional services can be made available to a person with disabilities by contacting Misha Vakoc.

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I. Introduction

Storm water is the surface runoff that results from rain and snow melt. Urban development alters the land's natural infiltration, and human activity generates a host of pollutants which can accumulate on paved surfaces. Uncontrolled storm water discharges from urban areas can negatively impact water quality.

The National Pollutant Discharge Elimination System (NPDES) storm water regulations establish permit requirements for discharges from publicly-owned ditches, pipes and other conveyances in urban areas. This fact sheet describes the municipal separate storm sewer systems owned and operated by the co-applicants listed below, and explains the rationale for the proposed NPDES permit conditions. Appendix A of this fact sheet details the regulatory background for the municipal storm water permit program, and the types of pollutants typically found in urban runoff.

II. Permit Area and Applicants

In accordance with Section 402(p) of the Clean Water Act (CWA) and federal regulations at 40 CFR §122.32, the draft permit is being proposed on a system-wide basis for the following municipal separate storm sewer system operator:

Fairbanks North Star Borough
Direct Services - Rural Services
P.O. Box 71267
Fairbanks, Alaska 99707-1267

The storm sewer systems owned and operated by the Borough are located within the boundaries of the Fairbanks Urbanized Area defined by the Year 2000 Decennial Census. (See Appendix B for a map of the Fairbanks Urbanized Area). Fairbanks North Star Borough submitted to EPA an application for NPDES permit coverage on March 7, 2003.

III. Description of the Fairbanks North Star Borough's Municipal Separate Storm Sewer Systems (MS4s) in the Fairbanks Urbanized Area and Discharge Locations

The terms "municipal separate storm sewer" and "small municipal separate storm sewer system" are defined at 40 CFR §122.26(b)(8) and (b)(16), respectively. Municipal separate storm sewer systems (MS4s) include any publicly-owned conveyance or system of conveyances used for collecting and conveying storm water that discharges to waters of the United States. Such a system may include roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains. The term "municipality" is defined at 40 CFR §122.2. An MS4 can be owned or operated by a federal, state, local or tribal entity, and includes systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as

individual buildings.

The Fairbanks North Star Borough (FNSB) owns and operates storm water conveyances within the Borough, which discharge to waters of the United States. FNSB supervises the activities of more than 40 Service Areas located within the Fairbanks Urbanized Area. Under Alaska state law, service areas (SAs) are specific geographical taxing jurisdictions within which the Borough provides a governmental service not otherwise provided throughout the Borough or to parts of the Borough outside the cities. For example, all public roads within an SA which are not owned by the a city, federal or state agency are maintained by the Fairbanks North Star Borough. The Borough's various departments, including Land Management, Community Planning, Public Works, and Parks & Recreation all oversee various land uses and resources owned by the Borough. Within the Fairbanks Urbanized Area, the Fairbanks North Star Borough is responsible for a land area of approximately 28 square miles.

The permit application provides a very general description of the FNSB storm sewer systems based on the Borough's current knowledge. The location and total number of all storm water outfalls discharging directly to waters of the U.S. is not known at this time. Preliminary maps included with the application identify Borough-owned property within the Urbanized Area and detail the Service Area boundaries. Drainage systems in most areas have not yet been well documented. The application states that many roadside ditches are designed to facilitate drainage from the paved areas and, because of the local geology, may function as infiltration basins and are not conveying any significant flow of water. Part II.B.3.e. of the draft permit requires that FNSB complete a detailed system assessment and map during the five-year permit term to define the extent of the Borough's storm water conveyance systems and identify the location of all outfalls.

IV. Receiving Waters

EPA proposes to authorize storm water discharges from the storm sewer system owned and operated by the Borough to waters of the United States within the Fairbanks Urbanized Area, which includes the Chena River, Chena Slough, Noyes Slough, and various drainage channels that discharge to the Tanana River.

All discharges to State waters must comply with the limitations imposed by the State as part of its certification of NPDES permits under CWA Section 401. State waters within the Fairbanks Urbanized Area have been classified by the Alaska Department of Conservation (ADEC) in 18 AAC 70.020 as fresh water with the following designated uses: water supply, water recreation, and growth and propagation of fish, shellfish, other aquatic life, and wildlife. Designated uses for the Chena River, from the confluence with the Chena Slough to the confluence of the Chena and the Tanana River, also include water supply for agriculture, aquaculture and industrial uses.

Any water body which does not, and/or is not expected to meet applicable water quality standards is described as "impaired" or as a "water quality-limited segment." Section 303(d) of

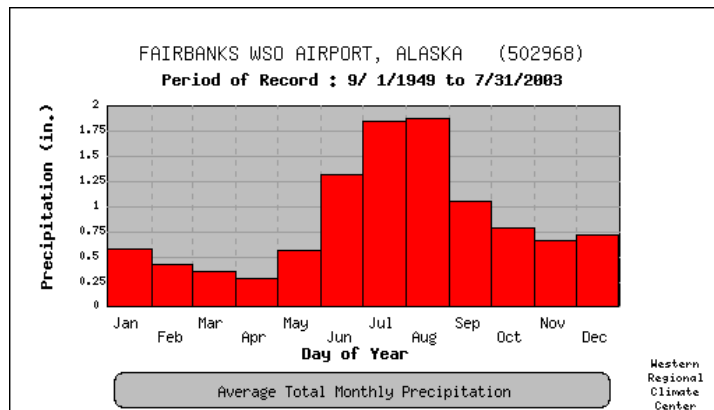
the CWA requires States to develop Total Maximum Daily Load (TMDL) management plans for water bodies which are determined to be impaired.

ADEC's *Final 2002/2003 Integrated Water Quality Monitoring and Assessment Report* lists the Chena River, Chena Slough, and Noyes Slough as not meeting water quality standards for petroleum products and sediment; Noyes Slough is also listed for debris. In each of these waters, urban runoff is indicated as a potential source of these pollutants.

ADEC is currently working to develop Total Maximum Daily Load (TMDL) analyses for these waters, and plans to complete TMDLs for petroleum products, sediment and debris for these water bodies by 2007. In the event that EPA approves these completed TMDLs prior to the expiration date of this permit, and waste load allocations are assigned to discharges from the Fairbanks North Star Borough designed to control the loadings of petroleum, sediment and/or debris from the storm sewer systems to surface water, EPA may reopen this permit to incorporate the appropriate terms and conditions of these approved TMDLs. Parts VI.A and VII.A of the permit addresses such a permit modification, consistent with the regulations at 40 CFR §§122.62, 122.64 and 124.5.

V. Average Annual Precipitation in Fairbanks

The National Oceanic and Atmospheric Administration's Western Regional Climate Center maintains historical climate information for various weather stations throughout the western United States. Annual average rainfall for the Fairbanks area is approximately 10.54 inches per year, with most of the precipitation occurring during the summer months.



Snow is the predominant precipitation during the winter months in the Fairbanks area.

VI. Basis for Permit Conditions

The conditions established by the draft permit are based on Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1342(p)(3)(B). This section mandates that an NPDES permit for MS4 discharges must effectively prohibit non-storm water from entering the MS4, and require controls to reduce pollutants in municipal storm water discharges to the maximum extent practicable (MEP), including management practices, control techniques, and system design and engineering methods, and/or other such provisions determined by the NPDES permitting authority to be appropriate. See Appendix A for more details on the regulatory background for the municipal storm water program.

The draft permit proposes the use of best management practices (BMPs) as the primary means to control the sources of pollution in storm water discharges. EPA has determined that best management practices, implemented and enforced through a comprehensive storm water

management program, are the most effective mechanism for reducing the discharge of pollutants to the maximum extent practicable (MEP) and for complying with the water quality provisions of the Clean Water Act. EPA considers MEP to be an iterative process in which an initial storm water management plan is proposed and then periodically upgraded as new best management practices are developed or new information becomes available concerning the effectiveness of existing BMPs.¹ The NPDES regulations at 40 CFR §122.44(k) allow for use of BMPs when numeric limits are infeasible. EPA's Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits Policy (August 1996) addresses the use of BMPs in storm water permits to provide for attainment of water quality standards. (This policy is available on-line at <http://www.epa.gov/npdes/pubs/swpol.pdf>.)

The NPDES application requirements for municipal storm sewer system operators at 40 CFR §122.33 describe in detail the information that must be submitted to EPA to obtain permit coverage. MS4 operators have been required to define appropriate BMPs for their storm sewer systems, and measurable goals for those BMPs, using the framework provided by the so-called "six minimum measures" outlined in 40 CFR §122.34. (This framework is described in detail in Part VI.C. below.) Permit writers then determine the specific permit conditions necessary to reduce the discharge of pollutants to the maximum extent practicable. EPA carefully considered the program information submitted by the applicant in their NPDES application to develop the SWMP requirements in the draft permit. The permit application is included in the administrative record supporting this permitting decision.

No numeric effluent limitations are proposed at this time. Numeric limitations will be included in the final permit if required by the State as a condition for certification of the permit under Section 401 of the CWA. As mentioned above, EPA may, through the process of permit modification, add numeric limitations to the permit after its issuance if the Agency determines that the designated beneficial uses of the receiving waters are not being met and such permit modifications are reasonable to ensure the attainment of water quality standards.

VI.A. Discharges Authorized By This Permit

The draft permit authorizes all existing storm water discharges to waters of the United States from the portions of the municipal separate storm sewer systems owned or operated by the Fairbanks North Star Borough within the Fairbanks Urbanized Area.

The draft permit limits the authorization to discharge municipal storm water in a variety of ways:

- Storm runoff that is commingled with flows from process wastewater, non-process wastewater, and storm water associated with industrial or construction activity (as defined in 40 CFR §122.26(b)(14) and (15)) or other discharge flows are allowed, provided the commingled flows are already authorized by a separate individual or general NPDES permit.
- Certain types of non-precipitation related run off (referred to as "non-storm water") listed in 40 CFR §122.26(d)(2)(iv)(B)(1) are also allowed to enter the municipal storm sewer system as long as the discharges are not considered to be sources of pollution to the waters of the United States in the Fairbanks area.

¹ 64 FR 68754

However, Fairbanks North Star Borough would be responsible for the quality of the combined discharge, and therefore has an interest in locating any uncontrolled and/or un-permitted discharges to the storm drain system. In Part II.B.3, the permit requires the Borough to prohibit, through ordinance or other enforceable means, all other types of non-storm water discharges into the MS4(s).

- Discharges from the MS4 must not cause violations of state water quality standards, nor violate the Alaska anti-degradation policy for water quality standards.
- Because of the water quality impairment in the Chena River, Chena Slough and Noyes Slough due to petroleum products, sediment, and debris, Fairbanks North Star Borough will be required to identify to EPA in the first Annual Report whether storm water discharges from the MS4 contribute these particular pollutants, and which of their actions through the SWMP will actively prevent the discharge of these pollutants to these waterways.
- Snow disposal directly into waters of the United States, or directly to the municipal storm sewer system, is prohibited, due to concerns that the accumulated snow and meltwater may contain elevated levels of pollutants.

VI.B. Permittee Responsibilities

EPA regulations at 40 CFR §122.35(a) recognize that one or more of the minimum measures may be implemented by an entity other than the applicant (for example, a state organization may implement a street sweeping program for a given city). Part II.A.5 of the draft permit allows an MS4 operator to rely on another entity to implement some of the required minimum measures if: 1) the other entity in fact accomplishes the control measure; 2) the particular control measure is at least as stringent as the corresponding permit requirement; and 3) the other entity agrees to implement the control measure on the applicant's behalf.

If the Borough chooses to share responsibility to implement the minimum control measures with other entities, the partners should enter into legally binding agreements to minimize any uncertainty about compliance with the permit. (see 40 CFR §122.35.) Fairbanks North Star Borough remains responsible for compliance with the permit obligations in the event the other entity fails to implement the control measure (or component thereof).

VI.C. Storm Water Management Program Requirements

The permit requires the Borough to develop, implement, and enforce a storm water management program designed to reduce pollutants to the maximum extent practicable and to protect water quality. Regulations at 40 CFR §122.34 set forth six minimum pollution control measures to be included in a SWMP:

1. Public Education and Outreach on Storm Water Impacts;
2. Public Involvement and Participation;
3. Illicit Discharge Detection and Elimination;
4. Construction Site Storm Water Runoff Control;
5. Post Construction Storm Water Management in New Development and Redevelopment; and

6. Pollution Prevention/Good Housekeeping for Municipal Operations.

For each measure, the regulations specify certain required elements, and also provide guidance concerning what an adequate program should include. EPA has also developed separate guidance documents to assist operators to develop their SWMP and to determine appropriate measurable goals to be included in the SWMP.²

The permit application submitted on March 7, 2003, contains the various elements of the Borough's initial SWMP and identifies specific BMPs and accompanying measurable goals to accomplish each of the six required program elements. The proposed permit incorporates those BMPs, and includes nearly verbatim the specific activities put forth by the applicant. Milestones and compliance dates are also contained in Part III of the permit. Annual reports are required to document program accomplishments. EPA and ADEC may jointly review and approve any plans or plan modifications required by the permit.

1. Public Education and Outreach (40 CFR §122.34(b)(1))

The Borough must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and steps the public can take to reduce pollutants in storm water runoff.

An informed and knowledgeable community is crucial to the success of a storm water management program, since there is greater support for the program as the public gains a better understanding of the reasons why the program is necessary and important. Public support is particularly beneficial when operators of small MS4s attempt to institute new funding initiatives for the program or seek volunteers to help implement aspects of the program. Education can lead to greater compliance with the program, as the public becomes aware of the personal responsibilities expected of them and others in the community, including individual actions they can take to protect or improve the quality of area waters.

Fairbanks North Star Borough has identified two public education BMPs to accomplish this control measure, namely, distribution of storm water education materials throughout its jurisdiction, and promoting public service announcements about the storm water program using local media. EPA encourages the Borough to work cooperatively with the City of Fairbanks, City of North Pole, the University of Alaska - Fairbanks, and the Alaska Department of Transportation and Public Facilities to coordinate their collective efforts to educate local citizens about storm water pollution.

2. Public Involvement and Participation (40 CFR §122.34(b)(2))

This measure complements the Public Education control measure. If given the opportunity to participate, members of the public generally will become more supportive of a program. The permit requires that the public participation efforts comply with the

² EPA's National Menu of BMPs for Storm Water Phase II (October 2000) (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/menu.cfm>) ; Measurable Goals Guidance for Phase II Small MS4s (October 2001) (<http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm>)

public notice requirements of the state and local law. EPA encourages all communities to provide more opportunities for public participation, and to attempt to engage all groups serviced by the storm sewer system.

EPA believes that the public can provide valuable input and assistance to the development of a municipal storm water management program. The public should be given opportunities to play an active role in both the development and implementation of the program. Broad public support is crucial to the success of a storm water management program; citizens who participate in the development and decision making process are partially responsible for the program and, therefore, may be less likely to raise legal challenges to the program and are more likely to take an active role in its implementation. In addition, the community is a valuable, and free, intellectual resource providing a broader base of expertise and economic benefit. Citizens involved in the storm water program development process provide important cross-connections and relationships with other community and government programs, which can be particularly valuable when trying to implement a storm water program on a watershed basis, as encouraged by EPA.

The Borough has identified public involvement activities which include hosting community stream clean-up days; developing a storm water telephone hotline and website, and initiating a volunteer citizen committee to focus on storm water issues within the Borough.

EPA again encourages the Fairbanks North Star Borough to consider accomplishing its program goals in coordination with similar activities anticipated by other municipal storm water operators in the area, namely the Cities of Fairbanks and North Pole, University of Alaska and Alaska Department of Transportation and Public Facilities.

3. Illicit Discharge Detection and Elimination (40 CFR §122.34(b)(3))

An illicit discharge, typically, is any discharge to a municipal separate storm sewer system that is not storm water. There are some exceptions, such as fire fighting activities and otherwise permitted discharges; Part I.D. of the draft permit lists the types of non-storm water which can be discharged, provided they are not significant contributors of pollutants to the system. This minimum measure requires the MS4 operator to detect and eliminate illicit discharges from its system.

Discharges from MS4s often include wastes and wastewater from non-storm water sources. For example, EPA cites a 1987 study conducted in Sacramento, California, which found that almost one-half of the water discharged from a local MS4 was not directly attributable to precipitation runoff. A significant portion of these dry weather flows were from illicit and/or inappropriate discharges and connections to the MS4.

Illicit discharges enter the system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the MS4 from cracked sanitary systems, spills collected by drain outlets, or paint or used oil dumped directly into a drain). Examples of other sources include, but are not limited to: sanitary waste water effluent from septic

tanks; car wash waste waters; radiator flushing disposal; laundry waste waters; and improper disposal of auto and household toxic waste. The result is untreated discharges that contribute high levels of pollutants, including heavy metals, toxics, oil and grease, solvents, nutrients, viruses, and bacteria to receiving water bodies. Pollutant levels from these illicit discharges have been shown in EPA studies to be high enough to significantly degrade receiving water quality and threaten aquatic, wildlife, and human health.

There are four required components to this measure. The MS4 operator must:

- a. Develop a map of the storm sewer system which shows outfalls and names of the receiving waters.
- b. Prohibit discharges of non-storm water to the storm sewer system through the use of an ordinance or other regulatory mechanism, and provide for enforcement procedures and actions. EPA recognizes that some MS4 operators may not have the legal authority to pass an ordinance; such organizations must evaluate existing policies and procedures and use those in the development of a regulatory mechanism.
- c. Develop and implement a plan to detect and address non-storm water discharges. EPA recommends that this plan contain procedures to identify the problem areas in the community, determine the source of the problem(s), remove the source if one is identified, and document the actions taken.
- d. Inform public employees, businesses, and the general public of the hazards associated with illegal discharges.

Guidance, including model ordinances, is available from EPA and others to assist in the implementation of an illicit discharge detection and elimination program.³

The Borough has identified activities to accomplish this measure, such as completing a map of drainage features within their jurisdiction of the urban area, educating the public about existing laws regarding illicit discharges, and inspecting identified problem areas.

4. Construction Site Storm Water Runoff Control (40 CFR §122.34(b)(4))

MS4 operators are required to develop, implement and enforce a program to reduce pollutants in storm water runoff from construction activities that result in a land disturbance of greater than or equal to one acre.

Polluted storm water runoff from construction sites often flows to MS4s and ultimately is discharged into local rivers and streams. Sediment is usually the main pollutant of concern, as it has been demonstrated that sediment runoff rates from construction sites are typically 10 to 20 times greater than those of agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. During a short period of time,

³ See e.g., Pitt, R., M. Lalor, R. Field, D.D. Adrian and D. Barbe. 1993. Investigation of Inappropriate Pollutant Entries into Storm Drainage Systems: A User's Guide. US EPA Office of Research and Development. EPA/600/R-92/238 <http://www.epa.gov/clariton> ; New England Interstate Water Pollution Control Commission, 2003. Illicit Discharge Detection and Elimination Manual: A Handbook for Municipalities.

construction sites can contribute more sediment to streams than can be deposited naturally during several decades. The resulting siltation, and the contribution of other pollutants from construction sites, can cause physical, chemical, and biological harm to our nation's waters. For example, excess sediment can quickly fill rivers and lakes, requiring dredging and destroying aquatic habitats.⁴

Even though discharges from all Alaskan construction sites disturbing more than one acre in Alaska are independently required to be authorized by an NPDES storm water discharge permit (specifically, the NPDES General Permit for StormWater Discharges from Construction Activity, AKR10-0000), this minimum program measure is necessary to enable the local MS4 operators to effectively and directly control construction site discharges into their storm sewer systems. The MS4 operator must incorporate the following elements into their local programs:

- a. An ordinance or other regulatory mechanism requiring proper sediment and erosion control, and proper waste management controls, at construction sites;
- b. Procedures for site plan review of construction plans;
- c. Procedures for site inspection and enforcement; and
- d. Procedures for the receipt and consideration of public comments.

Municipal operators can and should review what existing procedures are already in place in their jurisdictions for these activities. For example, plans are often reviewed by the local planning board, and yet not the public works staff. MS4 operators must work to optimize coordination between different municipal offices.

The draft permit allows MS4 operators to exempt from local regulation those sites which qualify for EPA's "low rainfall erosivity waiver" from the NPDES General Permit for StormWater Discharges from Construction Activity. This waiver, allowed by EPA regulation at 40 CFR §122.26(b)(15)(i)(A), is based on the "R" factor from the Revised Universal Soil Loss Equation (RUSLE) and applies to projects when (and where) negligible rainfall/runoff is expected. EPA plans to provide that project waiver information granted under NPDES Construction General Permit in the near future through a publicly accessible EPA website.

The Borough has proposed to fulfill the requirements of this control measure by adopting an appropriate ordinance within the FNSB controlled areas of the urbanized area; educating developers and road commissioners about the construction runoff requirements; developing procedures for site inspections; and developing local guidelines for new building and service area construction.

5. *Post Construction Storm Water Management in New and Redevelopment (40 CFR §122.34(b)(5))*

This control measure applies in areas undergoing new development or redevelopment. Post-construction controls are necessary because runoff from such areas has been shown to significantly affect receiving water bodies. Many studies indicate that

⁴64 FR 68728 - 68731 (December 8, 1999)

prior planning and design for the minimization of pollutants in post-construction storm water discharges is the most cost-effective approach to storm water quality management.⁵

Post-construction runoff can cause an increase in the type and quantity of pollutants in storm water runoff. As runoff flows over areas altered by development, it can pick up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen and phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such as lakes, ponds, and streams. Post-construction runoff also increases the quantity of water delivered to the water body during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete, and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include stream bank scouring and downstream flooding, which often lead to a loss of aquatic life and damage to property.

This minimum measure requires municipal operators to develop, implement and enforce a program to reduce pollutants in post-construction runoff from areas of new development and redevelopment. This measure applies at minimum to projects which are greater than or equal to one acre in size. In order to implement this measure, the Borough must:

- a. Develop and implement locally appropriate strategies which include a combination of structural and/or nonstructural BMPs requirements. Non-structural requirements can include planning, zoning, and other local requirements such as buffer zones. Structural controls include the use of storage, infiltration basins, or vegetative practices such as rain gardens or artificial wetlands;
- b. Adopt an ordinance or other regulatory mechanism to address post-construction discharges; and
- c. Ensure adequate long-term operation and maintenance of BMPs.

The Borough has identified the following activities to accomplish this control measure: develop appropriate planning elements for local projects such as better site design and reduction of impervious surfaces; developing a design manual for appropriate storm water controls; institute an inspection program for such post-construction storm water controls; and adopt changes to FNSB Title 17 to include provisions for post-construction storm water controls for subdivision and road construction.

6. *Pollution Prevention and Good Housekeeping (40 CFR §122.34(b)(6))*

This measure requires operators to implement an operation and maintenance program to prevent or reduce pollutant runoff from activities conducted by the municipality. The MS4 operator must examine and subsequently alter their own actions to reduce the amount and type of pollution that: (1) collects on streets, parking lots, open spaces, storage and vehicle maintenance areas, which may be discharged into local waterways; and (2) results from actions such as environmentally damaging land development and flood management practices or poor maintenance of storm sewer

⁵ 64 FR 68725-68728 and 68759 (December 8, 1999)

systems. Activities associated with maintenance of parks and open spaces, as well as fleet and building maintenance, must also be considered for possible water quality impacts. While this measure is meant primarily to improve or protect receiving water quality by improving municipal or facility operations, it also can result in a cost savings for the MS4 operator, since proper and timely maintenance of storm sewer systems can help avoid repair costs from damage caused by age and neglect.

MS4 operators must examine their maintenance activities and schedules, and inspection procedures for controls to reduce floating debris and other pollutants. By evaluating existing practices, municipal operators can improve operations to reduce or eliminate discharges from roads, municipal parking lots, maintenance and storage yards, waste transfer stations, salt/sand storage locations and snow storage/disposal areas.

Snow storage and disposal practices are specifically identified in this permit as deserving particular attention by the Borough, given the annual accumulation of snow in the Fairbanks area and the increased potential for accumulated pollutants to be discharged from snowmelt during the spring season. Snow plowed from urban streets and parking lots often contains the variety of materials which have accumulated on the snowpack and other cleared surfaces. Studies of urban snow disposal sites in northern climates demonstrate that snow meltwater can be a potential source of significant pollutant loadings to surface water, and commonly contains pollutants such as debris, sediment, chlorides, and oil and grease. Part II.B.6. of the permit requires FNSB to implement controls at snow disposal sites to reduce the discharge of pollutants in meltwater. Snow disposal site design criteria created by the Municipality of Anchorage, and/or snow management practices already developed by Alaska Department of Transportation and Public Facilities, may assist the Borough to address conditions for appropriate snow disposal practices in the arctic environment. EPA encourages the Borough to work with the other municipal storm water system operators in the area to identify appropriate management measures.

The permit does not specify particular BMPs, nor does it specify a frequency for any BMPs, as it is expected that each MS4 operator will determine the appropriate good housekeeping BMPs for their community as necessary to protect water quality, and will train their employees on proper techniques to ensure such activities are accomplished.

Fairbanks North Star Borough has identified the following activities to implement this control measure: educating the public on proper septic system construction and repair; developing a pollution prevention and control program appropriate for FNSB activities; and developing a training program for Borough Department staff.

7. *Reviewing and Updating the Storm Water Management Program*

The SWMP is intended to be a functioning mechanism for the Borough's use. Therefore, minor changes and adjustments to the various SWMP elements are expected and may be necessary to more successfully adhere to the goals of the permit. EPA has determined that minor changes to the SWMP shall not constitute the need for permit modifications as defined in the regulations at 40 CFR §122.6. Part II.C. of the permit describes procedures to be used to perform additions and minor changes to the SWMP. The permit does not allow the Borough to remove elements in the SWMP that are required through permit conditions or regulatory requirements. Any changes requested

by the Borough will be reviewed by EPA and ADEC.

8. *Transfer of Ownership, Operational Authority or Responsibility for SWMP Implementation*

EPA does not intend to mandate a permit modification should the Borough annex additional lands or accept the transfer of operational authority over portions of the MS4. Implementation of appropriate SWMP elements for these additions (annexed land or transferred authority) is required. The Borough must notify EPA of any such additions or transfers in the Annual Report. EPA may require a modification to the permit based on such new information.

9. *Storm Water Management Program Resources*

Part II.E. of the permit requires the Fairbanks North Star Borough to provide adequate support to implement the activities under the SWMP. Compliance with Part II.E. will be demonstrated by the Borough's ability to fully implement the SWMP and other permit requirements as scheduled. The permit does not require specific funding or staffing levels, thus providing the Borough the ability and incentive to adopt the most efficient and cost effective methods to comply with permit requirements.

VI.D. Schedule for SWMP Implementation and Compliance

Part III of the permit summarizes the specific BMPs contained in the Fairbanks North Star Borough's SWMP, and specifies the dates by which the activities/milestones will be accomplished.

VI.E. Monitoring, Recordkeeping and Reporting Requirements

The Phase II storm water regulations at 40 CFR §122.34(g) require that MS4 operators evaluate program compliance, the appropriateness of BMPs in their storm water management programs, and progress towards meeting their measurable goals. These requirements have been included in Part IV of the permit.

The nature of the monitoring activities to be implemented by the Borough largely depends on the measurable goals selected. Measurable goals in the permit application are primarily measures of the level of effort given to implementing a particular BMP, but could also encompass actual measures of water quality improvement. If the Borough chooses to conduct storm water monitoring, EPA encourages a mix of physical, chemical, biological or programmatic indicators.⁶

EPA expects that during the initial five year term of the permit, MS4 operators will opt for measurable goals which define and report on a level of effort for implementation of BMPs. Monitoring will largely consist of keeping track of these efforts. This information must be submitted to EPA in the Annual Report described below. If chemical, biological, or physical storm water monitoring is conducted by the Borough, Part IV.A.2. of the permit includes requirements related to representative monitoring, test procedures and recording results.

⁶ 64 FR 68769 (December 8, 1999)

Part IV.B. of the permit requires the Borough to keep all records required by this permit for a period of at least three years. Records need to be submitted only when requested by EPA. The Borough's storm water management program must be available to the public; MS4 operators may charge a reasonable fee for copies, and may require a member of the public to provide advance notice of their request. EPA encourages the applicants to make their program materials available to the public electronically via a website or other viable means.

Operators must submit Annual Reports during the first five-year permit term, as required by 40 CFR §122.34(g)(3). Components for the Annual Report included in Part IV.C. requires the co-applicants to evaluate their program for compliance with the terms of the permit, the appropriateness of the identified BMPs, and progress towards achieving their measurable goals. The Borough may need to change their SWMP based on this evaluation process. The Borough may also need to change their SWMP based on the need to address water quality impacts, to include more stringent requirements to comply with federal law, or to include conditions necessary to comply with the goals of the Clean Water Act. Requirements for the minimum control measures in Part II.B. detail specific information to be reported for each control measure. The Annual Report must also contain a summary of any information that has been collected and analyzed, including any and all types of data. The Borough must indicate what activities are planned for the next reporting cycle, and discuss any changes to either BMPs or measurable goals. The Annual Report must indicate if any minimum control measure or measurable goal is the responsibility of another entity.

Appendix A of the permit contains a suggested format for the Annual Report. In the interest of conserving resources, EPA will accept the Annual Report document in a readily accessible electronic format such as Adobe Acrobat, or other commonly available word processing program, and the documents may be sent to EPA on CD-ROM. However, the signed certification statement required for all reports submitted to EPA must be created and submitted in hard copy. Any documents comprising the Annual Report may accompany the certification and be submitted on a disk or CD-ROM.

VI.F. Standard Permit Conditions

Sections V. and VI. of the draft permit contain standard regulatory language that must be included in all NPDES permits, consistent with 40 CFR §122.41. Because they are regulations, they cannot be challenged in the context of an NPDES permit action. This standard regulatory language covers requirements such as monitoring, recording, reporting requirements, compliance responsibilities, and other general requirements.

VII. Other Legal Requirements

VII.A. Endangered Species Act

The Endangered Species Act requires federal agencies to consult with the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) and the U.S. Fish and Wildlife Service (USFWS) on agency actions that could affect any threatened or endangered species or critical habitat.

EPA requested lists of threatened or endangered species from the NOAA Fisheries and

USFWS in letters dated August 28, 2003. In a letter to EPA dated September 9, 2003, NOAA Fisheries stated that no listed species or critical habitat for which the National Marine Fisheries Service bears responsibility are likely to occur in these areas. In a letter to EPA dated September 11, 2003, USFWS stated there are no listed species or designated critical habitat in the Fairbanks North Star Borough. In a follow-up telephone conversations between EPA and USFWS and NOAA Fisheries staff on April 13 and 16, 2004, respectively, EPA confirmed that the list of endangered species or critical habitat had not changed since the written communications of September 2003.

VII.B. Essential Fish Habitat

Under the Magnuson-Stevens Fishery Conservation and Management Act, NOAA Fisheries and various fisheries management councils must identify and protect "essential fish habitat" for species managed under the Act. The EPA tentatively has determined that reissuance of this NPDES permit will have no adverse effect on essential fish habitat. Any comments received from the NOAA Fisheries regarding the finding of no adverse effect will be considered prior to reissuance of this permit.

Section 305(b) of the Magnuson-Stevens Act [16 USC 1855(b)] requires federal agencies to consult with NOAA Fisheries when any activity proposed to be permitted, funded, or undertaken by a federal agency may have an adverse effect on designated Essential Fish Habitat (EFH) as defined by the Act. The EFH regulations define an adverse effect as any impact which reduces quality and/or quantity of EFH and may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific, or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. Adverse impacts from federal actions must be minimized.

According to NOAA, as described in a letter to EPA dated September 25, 2003, and in the Essential Fish Habitat Environmental Assessment,⁷ the following species are present in the general area of the permitted discharges:

Chinook salmon -- Eggs and larvae, Juveniles, Adults
Chum salmon -- Eggs and larvae, Juveniles, Adults
Coho salmon -- Eggs and Larvae, Juveniles, Adults

EPA has determined that issuance of this permit will have no adverse effect on EFH. As previously described, the storm water management controls required by the draft permit are intended to protect water quality to the maximum extent practicable, and will result in an overall improvement over current conditions. Discharges of municipal storm water from the MS4s in the greater Fairbanks area have occurred for many years prior to the promulgation of EPA regulations to permit such discharges; this permit restricts the discharge of pollutants through source control. NOAA Fisheries will be provided with the draft permit and this fact sheet during the public comment period. Any comments received from NOAA Fisheries regarding EFH will be considered prior to final issuance of this permit.

⁷ http://www.fakr.noaa.gov/habitat/efh_ea/

VII.C. National Historic Preservation Act

With regard to the National Historic Preservation Act, EPA believes that the reduction of pollutants in runoff will not result in the disturbance of any site listed or eligible for listing in the National Historic Register. Therefore, EPA believes that the actions associated with this permit are also in compliance with the terms and conditions of the National Historic Preservation Act. If any permitted entity engages in any activity which meets all of the following criteria, they must consult with and obtain approval from the State Historic Preservation Office prior to initiating the activity: 1) the permitted entity is conducting the activity in order to facilitate compliance with this permit; 2) the activity includes excavation and/or construction; and 3) the activity disturbs previously undisturbed land. Some examples of activities subject to this permit condition and the above criteria include, but are not limited to: retention/detention basin construction; storm drain line construction; infiltration basin construction; dredging; and stabilization projects (e.g., retaining walls, gabions). The requirement to submit information on plans for future earth disturbing is not intended for activities such as maintenance and private development construction projects.

VII.D. State Certification of the Draft Permit

Concurrent with the public notice of today's draft permit, EPA is formally requesting state certification of the permit, as required by Section 401(a)(1) of the CWA and 40 CFR §124.53. ADEC has provided a draft certification, which is included in Appendix C of this fact sheet.

Appendix A - Statutory and Regulatory Background

Storm water is the surface runoff that results from precipitation events and snow melt. Storm water flowing across land surfaces may contain or mobilize high levels of contaminants. Under most natural conditions, storm water runoff is slowed and filtered as it flows through vegetation and wetlands. These flows soak into the ground, gradually recharging groundwater, and eventually seep into receiving waters.

Urban development has significantly altered the natural infiltration capability of the land, and often generates a host of pollutants that are associated with the activities of dense populations. This developed area in turn causes an increase in storm water runoff volumes and pollutant loadings in the storm water discharged to receiving waters. Urban development increases the amount of impervious surface in a watershed, as naturally vegetated areas are replaced with parking lots, roadways, and commercial, industrial, and residential structures. These surfaces inhibit rainfall infiltration into the soil and reduce evaporation and transpiration, thereby increasing the amount of precipitation which is converted to runoff. Storm water and snow melt runoff washes over impervious surfaces, picking up pollutants while gaining speed and volume because of the inability to disperse and filter into the ground.⁸

Uncontrolled storm water discharges from areas of urban development can negatively impact receiving waters by changing the physical, biological and chemical composition of the water, resulting in an unhealthy environment for aquatic organisms, wildlife and humans. The Nationwide Urban Runoff Program (NURP), conducted by EPA between 1978 through 1983, demonstrated that storm water runoff is a significant source of pollutants. The study indicated that discharges from separate storm sewer systems draining from residential, commercial and light industrial areas carried more than 10 times the annual loadings of total suspended solids (TSS) than discharges from municipal sewage treatment plants providing secondary treatment. The study also identified a variety of other contaminants, such as oil and grease, copper, lead, and zinc, that were detected frequently at levels of concern. Numerous other studies and reports have confirmed the average pollutant concentration data collected in the NURP study.⁹

EPA's report entitled "National Water Quality Inventory, 1998 Report to Congress" concludes that storm water related discharges from both non-point and point sources remain the leading causes of existing water quality impairments.

More information and copies of documents with additional information on environmental impacts of storm water discharges are available via EPA's storm water web page, <http://www.epa.gov/npdes/stormwater>.

In 1987, Congress amended the Clean Water Act (CWA) and added Section 402(p). This section requires a comprehensive program for addressing storm water discharges through the National Pollutant Discharge Elimination System (NPDES) program. Specifically, CWA §402(p)(1) and (2) require NPDES discharge permits for the following five categories of storm

⁸64 FR 68725-27 (December 8, 1999).

⁹U.S. EPA 1983. *Results of the Nationwide Urban Runoff Program, Executive Summary*, Office of Water, Washington D.C.; and 64 FR 68726 (December 8, 1999).

water discharges:

1. Discharges permitted prior to February 4, 1987;
2. Discharges associated with industrial activity;
3. Discharges from large Municipal Separate Storm Sewer Systems (MS4s) serving a population of 250,000 or more;
4. Discharges from medium MS4s serving a population of 100,000 but less than 250,000; and
5. Discharges judged by the NPDES permitting authority to be significant contributor of pollutants or which contribute to a violation of a water quality standard.

CWA §402(p)(3) requires that industrial storm water discharges meet technology-based requirements and any more stringent requirements necessary to meet water quality standards. Municipal storm water discharges, however, are held to different standards. This section also specifies a new technology-related level of control for pollutants in the municipal discharges, namely, control to the maximum extent practicable (MEP). Permits for MS4 discharges may be issued on a system or jurisdiction-wide basis, and must effectively prohibit non-storm water discharges into the sewer system. Such permits must also require controls to reduce pollutant discharges to the maximum extent practicable including best management practices (BMPs), and other provisions as the EPA determines to be appropriate for the control of such pollutants. Currently, EPA believes that water quality-based controls, implemented with BMPs through an iterative process, are appropriate for the control of pollutants for storm water discharges from municipalities.

CWA §402(p)(5) required EPA to conduct additional studies on the impacts of storm water and submit a report to Congress. The purpose of the report was to identify unregulated sources of storm water discharges, determine the nature and extent of pollutants in the discharges, and establish procedures and methods to mitigate the impacts of those discharges on water quality. EPA published this report on December 8, 1999,¹⁰ and recommended the following:

- a. Establish a phased compliance with water quality standards approach for discharges from municipal separate storm sewer systems, with priority on controlling discharges from municipal growth and development areas;
- b. Clarify that the MEP standard should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects;
- c. Provide an exemption from the NPDES program for storm water discharges from industrial facilities where there are no activities where significant material is exposed to storm water;
- d. Provide extensions to the statutory deadline to complete implementation of the NPDES program for the storm water program;
- e. Target urbanized areas for the requirements in the NPDES program for storm water; and
- f. Provide control of discharges from inactive and abandoned mines located on

¹⁰ Report to Congress on the Phase II Storm Water Regulations, EPA-833-R-99-001.

federal lands.

CWA §402(p)(6) requires that EPA provide a comprehensive program that designates and controls additional sources of storm water discharges to protect water quality. EPA regulations promulgated under the authority of section 402(p)(6) are commonly referred to as the “Phase II storm water regulations,” and were published by EPA on December 8, 1999 (64 FR 68722-68851).¹¹ Additional sources regulated during this second phase of the storm water program include municipal storm water discharges from urbanized areas defined by the Decennial Census, and discharges from construction activities with land disturbances greater than or equal to one acre and less than five. (Requirements for construction-related discharges are addressed through other NPDES permits issued by EPA Region 10; more information on requirements for storm water from construction sites can be found at <http://www.epa.gov/npdes/stormwater/cgp>.)

The draft permit associated with this fact sheet implements the requirements of the Phase II storm water program for small municipal separate storm sewer systems in urbanized areas, and requires the operators of municipal separate storm sewer systems, like Fairbanks North Star Borough, to initiate a comprehensive storm water quality management program. As provided under 40 CFR §122.34(a), the permit allows up to five years during this first permit term for the Borough to fully develop and implement their storm water management program.

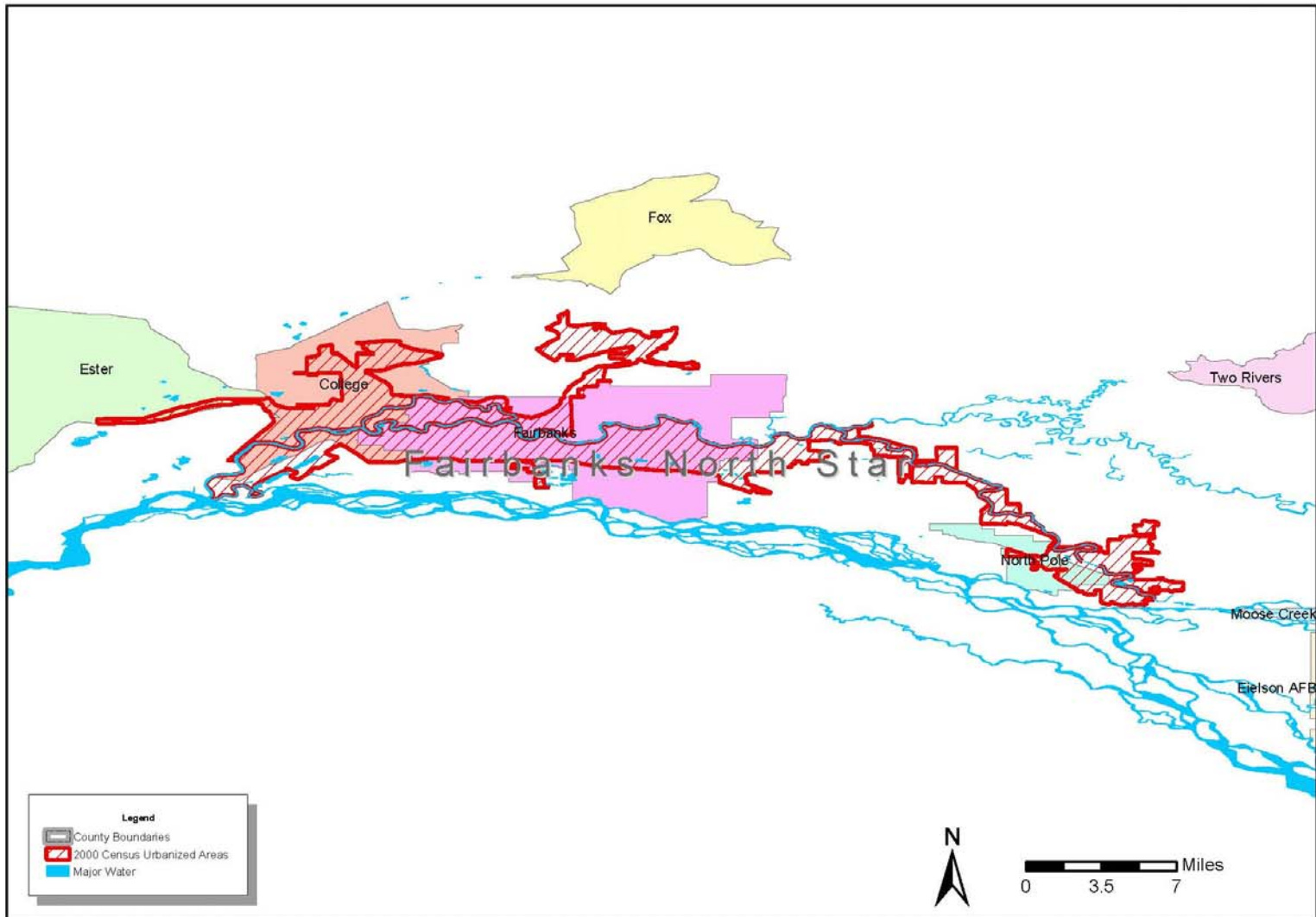
¹¹ 40 CFR §§122.30-35.

Appendix B - Fairbanks Urbanized Area Map

This map is a reproduction of the electronic map. Detailed maps of the Fairbanks Urbanized Area can also be viewed on-line at:

[http://cfpub1.epa.gov/npdes/storm Water/urbanmapresult.cfm?state=AK](http://cfpub1.epa.gov/npdes/storm%20Water/urbanmapresult.cfm?state=AK)

Storm Water Entities As Defined by the 2000 Census Urbanized Areas



Appendix C - Draft Certification from Alaska Department of Environmental Conservation



FRANK H. MURKOWSKI, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

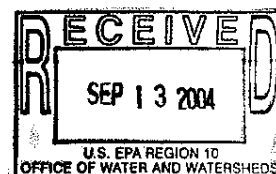
Water Non-Point Source Pollution Control Program

555 Cordova Street
Anchorage, AK 99501-2617
Phone: (907) 269-6281
Fax: (907) 269-7508
TTY: (907) 269-7511
<http://www.state.ak.us/dec/>

September 9, 2004

Certified Mail Z7099 3400 0016 8434 5609

Mr. Michael J. Lidgard
Manager, NPDES Permits Unit
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101



Re: Draft Certification of Reasonable Assurance, NPDES Permit No. AKS-053414
Fairbanks North Star Borough Municipal Separate Storm Sewer Systems (MS4s)

Dear Mr. Lidgard:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for the proposed for storm water discharges from all municipal separate storm sewer system (MS4) outfalls owned and operated by the Fairbanks North Star Borough.

Department of Environmental Conservation regulations provide that any person who disagrees with this decision may request an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185. Informal review requests must be delivered to the Director, Division of Water, 410 Willoughby Ave., Juneau 99801, within 15 days of the permit decision. Adjudicatory hearing requests must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising EPA's Alaska Operations office of our actions and enclosing a copy of the certification for their use.

Sincerely,

Jonne Slemons
Program Manager

Enclosure
CC: (with encl.)

EPA, AK Operations

"Clean Water"

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DRAFT CERTIFICATE OF REASONABLE ASSURANCE**

A Certificate of Reasonable Assurance, in accordance with Section 401 of the federal Clean Water Act and the Alaska Water Quality Standards, is issued to the Fairbanks North Star Borough, Municipal Separate Storm Sewer System (MS4s) for the proposed National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges.


The proposed NPDES Permit is located in the Fairbanks Urbanized Area of Alaska defined by the Year 2000 decennial Census.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Environmental Protection Agency NPDES Storm Water Permit, reference number AKS-053414 and a discharge may result from the proposed activity.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the conditions of the NPDES Permit adhered to.

Date 9/8/04



Jonne Slemons
Program Manager