

**U.S. Environmental Protection Agency (EPA)
Region 10**

**Response to Comments
On the
Draft NPDES Permit #AK-002064-8
for
United States Coast Guard
Integrated Support Command Kodiak**

April 26, 2005

Introduction

On September 17, 2004, U.S. Environmental Protection Agency (EPA) Region 10 proposed to reissue a National Pollutant Discharge Elimination System (NPDES) permit to the United States Coast Guard (USCG) Integrated Support Command Kodiak to discharge pollutants from its wastewater treatment plant (WWTP) to St. Paul Harbor, Kodiak Island, Alaska, pursuant to the provisions of the Clean Water Act. The discharge consists primarily of treated domestic wastewater, but also includes treated landfill leachate and treated effluent from the USCG's Liquid Oily Waste System, which treats oily bilge water and other oily wastes before discharge to the WWTP.

On August 25, 2004, the State of Alaska, Department of Environmental Conservation (ADEC) issued notice of its intent to certify that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act. Conditions of the state's certification were summarized in the Fact Sheet made available during the public comment period. ADEC issued a final Certification of Reasonable Assurance on April 15, 2005; it is attached to this *Response to Comments*.

The public notice requesting comments on the draft permit and certification was published in the Kodiak Daily Mirror on September 17, 2004. The comment period was scheduled to end October 18. On October 8, EPA received by e-mail from Jack Hug, Chief, Environmental Law Branch, USCG Alameda, a formal request to extend the public comment period by thirty days to accommodate the schedules of key personnel involved in developing comments. EPA extended the comment period by 15 days, which is consistent with extensions in other cases involving permits of similar complexity. The extension to November 2 was published in the Kodiak Daily Mirror on October 15, 2004.

During the comment period, EPA received comments on the draft NPDES permit from the following: 1) U.S. Fish and Wildlife Service via a letter to EPA from Ellen Lance, Endangered Species Biologist, dated October 14, 2004; and 2) USCG Integrated Support Command Kodiak via a memo to EPA from Capt. R.L. Lachowsky, Commanding Officer, dated October 29, 2004.

On November 16, 2004, EPA received from Jeanne Hanson, National Marine Fisheries

Service, an e-mail that indicated concurrence with EPA's determination that issuance of this permit is not likely to adversely affect endangered species or essential fish habitat. No recommendations were offered, and neither further ESA nor EFH consultation was deemed necessary.

On November 17, 2004, EPA received from Sue Magee, Alaska Coastal Management Program, Alaska Department of Natural Resources, an e-mail transmitting her 11/16/04 letter to the USCG and its attachments. In it, she concludes that consistency review is not required at this time and that ADEC certification will be sufficient.

This document represents EPA's response to each of the comments received during the comment period. A portion of the comment or a summary is provided below followed by EPA's response. EPA has also revised the permit in response to requirements in the State's certification and to reflect recent changes in organization at EPA, so that references to EPA are more accurate.

In addition, the location of some of the surface water monitoring was changed. All of these changes are explained below.

Comments submitted by U.S. Fish and Wildlife Service (FWS):

- 1. Comment:** *FWS supports limits proposed in the draft permit and agrees with EPA's determination that issuance of this permit is not likely to adversely affect Steller's eiders if it is issued without modification of the fecal coliform and total residual chlorine (TRC) limits that have been proposed. FWS further states that "if EPA modifies the permit after public comment is received, and issues a permit with less stringent requirements for treatment and limits for fecal coliforms, or higher TRC, then formal section 7 consultation will be required for the issuance of this permit."*

Response: Limits in the permit remain unchanged from those proposed in the draft permit.

- 2. Comment:** *FWS recommends annual testing for 30 compounds listed in Appendix 1. It justifies this recommendation because of increasing evidence in recent years of wastewater effluent as a source for endocrine disrupting chemicals (EDCs), pharmaceuticals, persistent bioaccumulative toxins (PBTs), and other trace compounds of anthropogenic origin. Its concern relates to the potential impact these toxics may have on the recovery of Steller's eiders, a threatened species. A number of studies were cited showing disruption of endocrine systems of animals in laboratory studies and compelling evidence that documented that endocrine systems of certain fish and wildlife have been affected by chemical contaminants, resulting in developmental abnormalities and reproductive impairment.*

Response: EPA concurs with the appropriateness of the recommendation to monitor for additional chemicals. Recognizing the additional cost of testing for the 30 chemicals in Appendix 1, EPA conferred with FWS, who has reduced the list of pollutants requested to 17B-estradiol, ethynylestradiol, bisphenol A, nonylphenol, di(2-ethylhexyl) phthalate, and triclosan. Effluent monitoring for these six pollutants is included in the permit on the

same schedule as the expanded effluent testing and can be accomplished by additional analyses of the same samples. The additional monitoring and analysis for these compounds will gather data that may be used to assess potential effects on Steller's eiders (or other endangered or threatened species, as needed).

Comments submitted by the United States Coast Guard (USCG):

Effluent Limitations

3. Flow Limit

Comment: *USCG requests deletion of the outfall flow limit in Table 1 of the draft permit, stating "Flow limit need not be included on this table, as it is stated in the ADEC certification. Flow limitation are generally established by state certification requirements."*

Response: EPA agrees that flow limits are generally established by state certification requirements. It is for that reason that EPA must include in the permit the flow limit at the design flow of 1.5 million gallons per day as a daily maximum, measured and recorded daily, which ADEC stipulated in its certification. Therefore, the flow limit in Table 1 is retained.

4. Percent Removal Requirement

Comment: *USCG suggests that the WWTP "may qualify under EPA's draft policy for NPDES requirements under wet weather flow conditions. Per the policy, the percent removal standard may be modified for facilities with wet weather flow impacts to separate sewer systems causing very dilute influent provided that 1) effluent concentration limits are consistently met, 2) the facility would have been required to meet significantly more stringent limitations than would otherwise be required for concentration-based standards, and 3) dilute influent is not caused by excessive I/I as defined by 40 CFR §35.2005(b)(16)."*

Response: This comment appears to refer to the proposed policy regarding NPDES permit requirements in publicly owned treatment works (POTWs) under peak wet weather flow conditions, which was published in the *Federal Register* on November 7, 2003 (68 FR 63042). EPA has not changed the permit limits based on this comment for several reasons. First, the referenced guidance has not been finalized and therefore is not in effect. Second, USCG did not provide evidence or data that its facility qualifies for different treatment under the terms of the draft guidance. And third, USCG did not request any specific permit changes in connection with the draft guidance or the issues it raises.

5. Fecal coliform limit:

a. **Comment:** *USCG "believes the exception to the anti-backsliding claim has been met due to the EPA letter dated September 3, 1980 which notified the USCG that*

chlorination and fecal coliform monitoring will no longer be required at the ISC Kodiak WWTP. This notification constitutes new information that was not available at the time of permit issuance, which would have justified a less stringent effluent limitation. In addition, the prior permit expired on October 29, 1984, and was not renewed, which is a material change in circumstance.”

Response: This comment refers to an exception to the “anti-backsliding” rule at CWA §402(o). The referenced exception, at §402(o)(2)(B)(i), allows less stringent permit limits where “information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) *and which would have justified the application of a less stringent effluent limitation at the time of permit issuance*” (emphasis added). The USCG cites as additional information “the EPA letter dated September 3, 1980 which notified the USCG that chlorination and fecal coliform monitoring will no longer be required.” That letter does not satisfy the § 402(o)(2)(B)(i) antibacksliding exception because that letter contains no information that would have justified a less stringent effluent limit in the original permit.

The comment also states the fact that the prior permit expired in 1984 and has not yet been renewed is a “material change in circumstance.” This consideration does not satisfy any of the exceptions to the anti-backsliding rule in CWA §402(o).

b. **Comment:** *USCG requests modification of fecal coliform limits to 100,000 FC/100 ml, average monthly limit, and 150,000 FC/100ml, daily maximum limit, “per the ADEC 401 certification”.*

Response: The preliminary certification provided by ADEC on August 25, 2004, required maximum effluent limitations of 15,000 FC/100 ml for a monthly average and 20,000 FC/100 ml for a daily maximum (not 100,000 FC/100ml and 150,000 FC/100ml as stated in the comment). The final certification provided by ADEC, dated April 15, 2005, required maximum effluent limitations of 100,000 per 100 ml. for a monthly average and 150,000 per 100 ml. for a daily maximum to be measured at outfall 001. These are water quality based limits established with a mixing zone. The lower limits established in this permit are driven by the anti-backsliding requirements of the Clean Water Act and technology considerations and fully comply with the state’s requirement in its certification. EPA compares the technology-based limits, established at 200 FC/100 ml as the monthly average, 400 FC/100 ml as the weekly average, and 800 FC/100 ml as the daily maximum, with the previous permit limits and with the water quality-based effluent limits certified by the state. It then selects the most stringent among these for the permit. The previous permit limits and the technology-based limits are more stringent than the state-certified water quality based limit and are therefore applied as the permit limits.

c. **Comment:** *USCG requests reasons for “deviation from State requirements and requirements for the City of Kodiak, and describe why State requirements do not meet Best Professional Judgment criteria.”*

Response: The State requirements, as set out in the State’s 401 certification, are based

on meeting the State's water quality standards. The Clean Water Act requires that NPDES permits contain a technology-based effluent limit for each pollutant, which is replaced by a water quality based effluent limit (WQBEL) only if the WQBEL is more stringent. In this case, for fecal coliform, the technology based limit based on BPJ is more stringent, so it is the basis of the permit limit. We note that the permit limits are consistent with fecal coliform levels specified in the State's definition of disinfection, which is based on the application of available technology.

For the City of Kodiak permit, EPA applied the State certified WQBEL. In the case of the USCG Kodiak, EPA considered previous permit limits under the anti-backsliding provisions and conducted a BPJ analysis to determine a technology-based effluent limit, as required under the CWA. Both of these last two methods yielded the lower limits that have been placed in the permit.

d. **Comment:** *USCG requests inclusion of mixing zone definition and sample locations in the ADEC 401 certification.*

Response: EPA is assuming that this comment applies to fecal coliform, which is the pollutant of concern for which ADEC authorized a large mixing zone in both its preliminary and final certifications. EPA has set fecal coliform limits that are both technology-based and based on the previous permit limits. Mixing zones do not affect either of these bases for the permit limits.

For chlorine, pH, and dissolved oxygen, ADEC authorized a zone of initial dilution and required surface water monitoring for these parameters at its edge, which is at 5 meters horizontally from the outfall. The State also certified monitoring for fecal coliform at the edge of the larger mixing zone. Since EPA has applied lower technology-based fecal coliform limits, the fecal coliform monitoring is moved to this location. All monitoring results are submitted both to EPA and to the State.

6. **Chlorine Limit** (response to ADEC's "Certificate of Reasonable Assurance")

EPA calculated water quality based limits for chlorine of 0.12 mg/l monthly average and 0.33 mg/l daily maximum. In the State's precertification of this draft permit, it required 0.5 mg/l for a monthly average, 0.75 mg/l for a weekly average, and 1.0 mg/l. for a daily maximum. Since these limits were above the calculated water quality based limit, the lower limits were applied in the draft permit. The State's final certification requires maximum chlorine residual in the effluent of 0.20 mg/l monthly average, 0.28 mg/l weekly average, and 0.35 mg/l daily maximum. The previously calculated limits for monthly average and daily maximum are lower than the State-certified limits and so are retained; the weekly limit certified by the State is added to the permit to comply with the certification. The State requires monitoring at the outfall at least three times a week. Daily monitoring is required in the permit.

The State's certification also seeks to apply a maximum limit of 0.075 mg/l total chlorine residual "within the zone of initial dilution or adjacent to the outfall in the

receiving water”. Consistent with the usual practice of allowing a zone of initial dilution within which the standards may be exceeded, EPA interprets this requirement as applying at the edge of the ZID and has established quarterly monitoring there; EPA does not, however, establish permit limits in the receiving water. All monitoring results are submitted both to EPA and to the State.

7. pH Limits (response to ADEC’s “Certificate of Reasonable Assurance”)

The State has certified effluent limits for pH of 6.0 to 9.0, to be monitored at least three times per week. These limits are in the permit, and daily monitoring is required.

The State’s certification also seeks to apply pH limits of “6.5 to 8.5 and within 0.2 standard units of the receiving water at the outside edge of the ZID.” EPA does not apply permit limits in the receiving water; however, monitoring for pH is established at the edge of the ZID. All monitoring results are submitted both to EPA and to the State.

8. Dissolved oxygen (response to ADEC’s “Certificate of Reasonable Assurance”)

The State has certified a minimum limit of 5.0 mg/l and a maximum limit of 17.0 mg/l of dissolved oxygen at the edge of the ZID. EPA does not apply permit limits in the receiving water; however, monitoring for dissolved oxygen is required quarterly at the edge of the ZID. All monitoring results are submitted both to EPA and to the State.

9. Total aqueous and total aromatic hydrocarbons (response to ADEC’s “Certificate of Reasonable Assurance”)

In its certification of this permit, the State required a limit of 15 µg/l for total aqueous hydrocarbons and 10 µg/l for total aromatic hydrocarbons; those limits were included in the permit and are required to be monitored monthly.

Monitoring Requirements

10. Temperature

Comment: *USCG requests that effluent temperature monitoring frequency and sample type be modified to daily grab samples rather than continuous monitoring, asserting that daily grabs would provide sufficient data on effluent temperature and trends.*

Response: EPA agrees that daily monitoring for temperature on a “grab” basis is sufficient for the purposes of assessing in the next permit cycle the reasonable potential for the discharge to exceed water quality standards for temperature and ammonia. The temperature monitoring requirements in Table 1 of the permit have been modified to reflect this change.

11. Ammonia, Copper, Nickel, & Zinc

Comment: *USCG requests reduction of sampling frequency for these pollutants from*

quarterly to annual with monitoring in each subsequent year being conducted in a different quarter. “Five samples of these four parameters collected in subsequent quarters during the permit term adequately shows the seasonal variation and trends the EPA seeks.”

Response: EPA is not merely seeking data to show seasonal variability and trends but enough data to conduct a robust evaluation of reasonable potential to exceed water quality criteria when the permit is next reissued. The quarterly monitoring provides a minimally sufficient body of data to perform the required calculation. Five samples over the permit period would not provide enough data. Therefore, EPA is retaining the quarterly sampling requirement for these pollutants.

12. Whole effluent toxicity (WET):

- a. **Comment:** *USCG requests reduction of WET testing from once in each of the first four years of the permit term to once in the fourth year of the permit term. It claims that because WET testing conducted 1/30/04 did not show any toxic effects, that testing more than once is not justified.*

Response: EPA includes the four tests in the first four years of the permit term to gather the data needed by USCG to submit with its permit application after four and a half years. Part E. of Form 2A (NPDES Permit Application) requires that this data be submitted with the application. USCG did not submit the required data with its last permit application, although it did submit one set of results when specifically asked for it by EPA (the 1/30/04 testing). Since that sampling was for the last permit cycle, it does not obviate the need to meet the monitoring requirements of the permit application in the next permit cycle. Therefore, the requirement is retained.

- b. **Comment:** *USCG pointed out that the reference to “bilge water” in §I.B.1.b.(i) was inaccurate and should be replaced with “treated effluent from the LOWS facility”.*

Response: EPA agrees with the request and has made the change.

- c. **Comment:** *USCG requests a change in the re-sampling requirement from 14 days to 60 days after receipt of test results for which the test acceptability criteria are not achieved. It cites the possibility of adverse weather conditions for extended periods of time and alludes to its dependence on air travel to deliver samples to qualified labs; the implication is that, at times, it will not be able to deliver samples to analytical labs in a timely manner.*

Response: EPA recognizes the challenges the USCG and other remote Alaska facilities face in delivering samples to qualified labs in a timely manner when weather conditions are adverse. We also realize that most of the time the USCG will have no trouble meeting the 14 day deadline in this requirement. Therefore, we will retain the present requirement, but add a provision to allow a limited extension on a case-by-case basis if

the USCG has made a good faith effort to comply with the 14 day requirement and has been precluded from doing so for reasons beyond its control, such as adverse weather conditions affecting its ability to transport samples to the lab or unavailability of a lab to conduct the tests in the time frame required. A request to the Region 10 WET Coordinator will be needed to obtain such an extension. This change has been inserted in the permit.

- d. **Comment:** *USCG requests an extension from 90 to 180 days after the effective date of the permit for the submittal of the Toxic Reduction Evaluation (TRE) Workplan. The reason given is “heavy personnel workload, or, if required due to personnel unavailability, the time required to establish funding and contract services.”*

Response: The TRE Workplan is a 1–2 page document that should not involve a major commitment of personnel time and effort to produce. It is important to complete the TRE Workplan before the WET testing is conducted, so that its provisions may be implemented if WET testing shows significant toxicity. EPA believes that the 90 day deadline is reasonable and does not present an insurmountable obstacle such that it should be changed.

- e. **Comment:** *USCG requests a change in the additional testing requirement from two weeks to 60 days after receipt of test results for which toxicity is shown. It cites the possibility of adverse weather conditions for extended periods of time and alludes to its dependence on air travel to deliver samples to qualified labs; the implication is that, at times, it will not be able to deliver samples to analytical labs in a timely manner.*

Response: EPA recognizes the challenges the USCG and other remote Alaska facilities face in delivering samples to qualified labs in a timely manner when weather conditions are adverse. We also realize that most of the time the USCG will have no trouble meeting the two week deadline in this requirement. Therefore, we will retain the present requirement, but add a provision to allow a limited extension on a case-by-case basis if the USCG has made a good faith effort to comply with the two week requirement and has been precluded from doing so for reasons beyond its control, such as adverse weather conditions affecting its ability to transport samples to the lab or unavailability of a lab to conduct the tests in the time frame required. A request to the Region 10 WET Coordinator will be needed to obtain such an extension. This change has been inserted in the permit.

- f. **Comment:** *USCG requests that EPA change the requirement in §I.B.3.b so that no additional WET tests are required if the implementation of the TRE indicates a probable source of toxicity, even if the additional WET test continues to show toxicity greater than 1 TU.*

Response: When a previous WET test has shown toxicity, EPA requires additional WET testing to characterize and document the extent of the toxicity, not only to discover its

source. Therefore, discontinuing testing based only on determining the source of the toxicity would not provide the necessary data to characterize and document the extent of the toxicity, which is provided by the additional tests. It should be noted that § I.B.3.b. of the permit requires only one additional test if the source is found and the toxicity is less than 1 TU. EPA has retained the requirement as proposed.

- g. **Comment:** *USCG requests that EPA reduce from five to three the number of additional WET tests required over a twelve-week period if toxicity is shown. It claims that adverse weather condition and remoteness justify reduced testing requirements while allowing EPA to have adequate data to access [sic] toxicity.*

Response: EPA recognizes the challenges the USCG and other remote Alaska facilities face in delivering samples to qualified labs in a timely manner when weather conditions are adverse. In addition, adverse weather conditions may affect its ability to conduct the required testing. We also realize that most of the time the USCG will have no trouble conducting the required tests in the twelve week period. Therefore, we will retain the present requirement, but add a provision to allow a limited extension on a case-by-case basis if the USCG has made a good faith effort to comply with the permit requirement and has been precluded from doing so for reasons beyond its control, such as adverse weather conditions or unavailability of a lab to conduct the tests in the time frame required. A request to the Region 10 WET Coordinator will be needed to obtain such an extension. This change has been inserted in the permit.

- h. **Comment:** *USCG requests that EPA reduce from six to four the number of additional WET tests referred to in §§ I.B.3.c and e, to agree with the change requested in the previous comment.*

Response: See response to previous comment; no additional change in these sections is warranted.

13. Expanded Effluent Testing

Comment: *USCG requests that expanded effluent testing be reduced from three times in the first four and a half years of the permit term to once in the first year because it performed effluent testing on 2/17/04 to provide data required in the permit application for this permit cycle. Since that testing showed “no excessive levels of any of the parameters tested”, it claims that “historic characterization of effluent quality do [sic] not justify more frequent testing.”*

Response: The NPDES Permit Application Form 2A requires at least three effluent tests for the list of pollutants in Part D in the previous four and one half years. USCG should have submitted three tests with its last permit application, but only submitted the results of one test after EPA requested it after beginning work on this permit. The testing required in the permit will be needed by USCG to submit with its permit application for the next permit cycle. Therefore, the requirement is retained.

14. Landfill Leachate Monitoring

- a. **Comment:** *USCG requests that landfill leachate monitoring be reduced from once every six months to once in the first year of the permit term. It “believes that not only is the requested frequency adequate for the EPA to evaluate effluent quality, but historic characterization of landfill leachate quality in addition to the EPA requested landfill leachate testing at manhole #2, do [sic] not justify more frequent testing.”*

Response: As explained in the Fact Sheet, the landfill leachate discharge is analogous to a significant industrial user discharging to a municipal wastewater system. Under the national pretreatment program, a municipality accepting such a flow at its WWTP would be required to inspect the discharger annually and to impose at least semiannual sampling requirements in order to characterize the flow and protect against adverse impacts to the treatment plant, the receiving water, the biosolids quality, or the worker health and safety at the WWTP. In order to provide a similar level of protection and knowledge about the inflow to the permittee’s WWTP, EPA is including in the permit a requirement for semi-annual monitoring of the landfill leachate being discharged to the WWTP. Once in five years is not an adequate frequency for monitoring of any industrial discharge. Because of the close parallel with established regulatory requirements in the pretreatment program, EPA is applying comparable monitoring requirements to this waste stream. The requirement for semi-annual monitoring is retained.

- b. **Comment:** *USCG requests that landfill leachate samples be analyzed only for BOD₅, pH, ammonia as N, total suspended solids, and VOCs. USCG attached a contractor-generated memo, which summarized previous results of monitoring of the landfill leachate. A concluding recommendation from the contractor to the USCG is that “requiring semi-annual sampling events for the expanded list required by EPA does not appear justified. Annual or less sampling for a reduced list of constituents, such as VOCs (to capture vinyl chloride concentrations), ammonia-nitrogen, and possibly BOD₅ and TSS might be warranted.” This conclusion is based on the observation that sampling results from five years of testing (1996-2000) did not show “deleterious levels of metals, acid-extractable or base-neutral compounds (SVOCs), VOCs (except for low levels of vinyl chloride), oil and grease (as measured by THP-R and DRO), TKN, Nitrate or nitrite nitrogen, phosphorus, phenols, TSS or TDS. In addition, the pH is near neutral, BOD is not elevated, and ammonia-nitrogen level are low.”*

Response: The parameters being monitored are those included in the expanded effluent testing of the WWTP plus other parameters that have been detected in the leachate in previous testing or that are usually pollutants of concern in landfill leachate¹ See response to #14.a (above). No change in the permit is warranted.

¹ U.S. Environmental Protection Agency. 1998. Development Document for Proposed Effluent Limitations Guidelines and Standards for the Landfills Point Source Category. (EPA-821-R-97-022, January 1998).

- c. **Comment:** *USCG requests that landfill leachate monitoring be changed from 24 hour composite samples to grab because of occasional harsh weather conditions and freezing.*

Response: EPA agrees that some of the time the weather conditions may make the taking of 24 hour composite samples extremely challenging at the sampling location for the landfill leachate. Since the leachate flow is unlikely to change in composition very quickly, we have changed the sampling method for these samples to grab sample.

15. **Surface Water Monitoring**

Comment: *USCG requests that the frequency of surface water monitoring be decreased from quarterly for the permit term to once in the first year of the permit. It claims that surface water monitoring is “redundant to effluent monitoring and the requested monitoring frequency is adequate to provide the data EPA seeks.”*

Response: Contrary to the assumption of the USCG, the surface water monitoring is not duplicative of effluent monitoring. It is gathered to assess whether water quality criteria are being exceeded or have the potential to be exceeded, either at the edge of the authorized mixing zone or in the ambient water outside the influence of the outfall.

In the draft permit, EPA established the surface water monitoring location at the edge of the zone of initial dilution (ZID), 5 meters from the outfall, because of requirements for monitoring of chlorine residual, pH, and dissolved oxygen in the preliminary State certification, which stipulated this location. We have noticed that we omitted the fecal coliform surface water monitoring, which the State specified at the edge of a larger mixing zone. Because a technology-based permit limit was established for fecal coliform at the outfall, the larger mixing zone certified by the State for fecal coliform was not used. When the effluent levels of fecal coliform are in compliance with the technology-based permit limits, it is expected that the water quality criteria for fecal coliform will be met at the edge of the ZID. Therefore, EPA has added the fecal coliform monitoring at the edge of the ZID to confirm compliance with water quality criteria.

Additional Monitoring

In the draft permit, EPA applied additional surface water monitoring requirements at the edge of the ZID for ammonia as N, temperature, salinity, copper, nickel, zinc, and total residual chlorine (if chlorine is used for disinfection) in order to gather data to assess in the next permit cycle reasonable potential for ammonia, temperature, copper, nickel, and zinc to exceed water quality criteria. Monitoring for pH is also required for assessing ammonia's reasonable potential to exceed the criteria. That being the reason for this additional monitoring, we realize that it must be moved to a location outside of the influence of the outfall, not at the edge of the ZID.

Therefore, monitoring for these parameters in the final permit is moved to a location to be established by the USCG outside the influence of the outfall. A description and

justification of the monitoring station must be submitted with the first annual report of surface water monitoring. This data will be used to evaluate reasonable potential to exceed the water quality criteria for ammonia, pH, temperature, copper, nickel, zinc, and total residual chlorine (if chlorine is used for disinfection). Such data were lacking for the preparation of this permit.

The monitoring at the edge of the ZID and the monitoring outside the influence of the outfall are maintained on the quarterly schedule proposed in the draft permit in order to gather sufficient information to assess reasonable potential to violate in developing the next permit.

16. Quality Assurance Plan (QAP)

Comment: *USCG requested a change in the due date for the development or update of the QAP from 60 to 120 days and a change in the due date for implementation and notification of EPA and ADEC from 120 to 180 days. USCG cited “heavy workload or . . . the time required to establish funding and contract services.”*

Response: Implementation of the QAP provides the assurance that the sampling conducted by the USCG follows the procedures required in the NPDES permit. Ideally, the QAP should be developed and implemented before any of the required sampling takes place. In response to the USCG’s comment, EPA has relaxed the development due date to 90 days, which with the 33 or more days after permit issuance before the permit becomes effective, provides at least the 120 days requested in the comment; however, EPA is retaining the 120 day requirement for implementation and notification of EPA and ADEC, so that we can be assured of reliable data at the earliest possible time.

17. Removal of Representative Sampling section (§II.A)

Comment: *USCG requests that this section be removed because “the requirements of this paragraph appear arbitrary and subjective . . . vague and ambiguous. No scientific or regulatory basis is shown, and Paragraph 4F, Fact Sheet, page 13, is speculative.”*

Response: The “Representative Sampling” section is standard language included in all Region 10 NPDES permits. As such, it is not subject to revision based on comments on individual permits. The first paragraph is the same as the regulatory language at 40 CFR §122.41(j)(1). The second and third paragraphs were added to ensure that any spills, bypasses, treatment plant upsets, or other non-routine events will not result in violation of the effluent limits. The third paragraph prescribes how such samples will be collected, analyzed, and reported. This language is necessary to assure compliance with the Clean Water Act and the limits of the permit and is therefore authorized by 40 CFR §§ 122.43(a) and 122.44. No change is warranted in the permit.

18. Sovereign immunity from punitive civil penalties:

Comment: *USCG asserts “the United States has not waived its sovereign immunity from*

imposition of punitive civil penalties under the Clean Water Act . . .” and requests that the permit reflect this “limitation upon penalties for violation of permit conditions.”

Response: EPA recognizes that the USCG is not subject to civil penalties under United States Department of Energy v. Ohio, 503 U.S. 607 (1992). Any enforcement by EPA would take this into account under our enforcement discretion provisions. The language in question is standard permit language, required under 40 CFR §122.41(a), which cannot be changed on the basis of comments on individual permits. Therefore the language is retained.

19. Planned changes:

Comment: *“The USCG plans to make some upgrades to the wastewater treatment plant within the next two to five years. The upgrades are intended to extend the life of the facility and may incorporate treatment upgrades necessitated through this permit re-issuance process. A compliance schedule is requested to reflect these upgrades and changes over the life of this initial permit period.”*

Response: This comment does not identify particular permit requirements for which the USCG is requesting a compliance schedule, but EPA assumes that the fecal coliform limit is the concern.

EPA may include a compliance schedule for a limited period to allow the permittee to come into compliance with specific requirements related to **water quality based** permit limits that it cannot meet at the time of permit issuance.

The 1979 EPA permit limited fecal coliform and required disinfection; the fecal coliform limits in this permit are based on the anti-backsliding requirements of the Clean Water Act. They are also technology based under BPJ. A permittee is required to comply with such limits upon issuance; therefore, no compliance schedule may be included in the permit.

General prohibitions

20. Consolidation of similar paragraphs

Comment: *USCG requests that §§I.A.2, 3, and 4 be consolidated because they seem redundant.*

Response: EPA agrees that the sections seem to overlap; they were included separately because one was standard permit language, one restated the applicable narrative State water quality criterion, and one was required in ADEC’s preliminary certification of the permit. The first deals with deleterious effects on aquatic life, the second with the physical presence of certain qualities or materials on or in the water or on the bottom or shorelines, and the third with making the water unfit or unsafe for any marine use. Because of these significantly different focuses, EPA is retaining them in the form

proposed.

Fact Sheet Comments:

EPA finalized the fact sheet on September 16, 2004, as the background document for the Draft Permit. Therefore, it cannot be revised at this time, based on comments submitted during the public comment period. The fact sheet, together with this Response to Comments, provides the basis for conditions in the final permit. USCG submitted 32 comments on the fact sheet, some of those in conjunction with comments on the related sections of the draft permit. Those issues have been addressed in the comments above. For the record, the following are responses to the remaining comments on the Fact Sheet.

21. Liquid Oily Waste System

- a. Comment:** *USCG clarifies that the location of the Liquid Oily Waste System is not adjacent to the WWTP and that it discharges into the sewer system, rather than directly into the headworks of the WWTP.*

Response: EPA appreciates the clarification; although the comment referred to the draft permit indicating that “. . . at the WWTP before discharging into the headworks . . .,” it was actually the fact sheet that contained this language. As stated above, the fact sheet is a final document and cannot be changed; no change in the permit is warranted.

- b. Comment:** *USCG proposes the following language to be used in the fact sheet: “USCG ISC Kodiak receives and collects liquid oily wastes from a variety of sources including ship bilges and ballast tanks, oil water separators, spilled fuels, collection sumps, fuel storage tank bottoms, and equipment, vehicle and aircraft maintenance and repair operations and treats it at the Liquid Oily Waste System (LOWS) Facility. The LOWS began operation in November 1997 and consists of a self-contained plant that uses a combination of gravity settling, heat and chemical treatment to separate the oil and water. Recovered used oil is transferred to the Steam Plant as a fuel supplement and the water (treated effluent) is discharged to the sanitary sewer system/wastewater treatment plant (WWTP).”*

Response: EPA appreciates the clarification; no change in the permit is warranted.

22. Biosolids

Comment: *USCG clarifies that biosolids are aerobically digested and dewatered before they are hauled to the City of Kodiak WWTP for further processing and disposal; dewatered screenings are bagged and disposed at the Kodiak Island Borough Landfill.*

Response: EPA appreciates the clarification. No change in the permit is warranted.

23. 1980 EPA Memo

Comments: *In several comments, USCG referred to the 9/3/80 letter from EPA to the USCG, which stated “Pending an NPDES permit modification, this letter will serve as notification that chlorination and monitoring of fecal coliform in the effluent will no longer be required at the Kodiak facility.”*

Response: EPA appreciates the additional information; the letter in question was not found in EPA’s files but was provided to us during the public comment period by the USCG. Therefore, the Fact Sheet makes no reference to it nor draws any conclusions based on it. See also the response to comment 5.a (above).

24. 12/17/03 ADEC letter

Comment: *USCG asked for amendment of the fact sheet with reference to the ADEC letter dated 12/17/03, indicating, “. . . renewal of State individual wastewater permit No. 9825-DB001 . . . until 12/31/04.”*

Response: EPA appreciates the clarification; no changes are warranted in the permit.

25. Compliance History

a. Comment: *USCG states that EPA disregards the 9/3/80 EPA letter regarding deletion of fecal coliform monitoring requirements and requests modifying fact sheet language that describes exceedances of 1979 fecal coliform permit limits.*

Response: The 9/3/80 letter did not affect the applicable fecal coliform limit in the 1979 permit. The exceedances of those limits were described accurately in the Fact Sheet. No change is warranted in this permit.

b. Comment: *USCG objects to EPA reference to violations of BOD₅ and TSS loading limits in 1997 and 1998 when “no NPDES permit was in effect for the USCG ISC Kodiak WWTP. The WWTP was operating under an ADEC discharge permit . . . and required only concentration limits of 30 mg/l monthly average and 60 mg/l daily maximum be met for BOD₅ and TSS.”*

Response: Since the State of Alaska has not taken delegation of the NPDES program, permits issued by ADEC are not valid NPDES permits. Therefore, EPA can only evaluate compliance against the EPA permit issued last in 1979, which included the load limits referenced. No change in this permit is warranted.

c. Comment: *USCG requests elimination of a subparagraph which states that EPA took no action on the above mentioned exceedances.*

Response: EPA reasserts that the statement in question is true. EPA could only enforce on the basis of a federally issued permit; the history given is accurate: there were exceedances of the limits in the 1979 permit; EPA took no enforcement action on those

exceedances. No change in the permit is warranted.

26. Location of Discharge

Comment: *USCG claims that the “discharge description suggests outfall is located on the north-facing side of the island. For clarification, suggest sentence be changed as follows “. . .W, to St. Paul Harbor located on the south facing shore and northeast quadrant of Kodiak Island, in the Gulf of Alaska.”*

Response: No change in the permit is warranted.

27. Whole Effluent Toxicity Testing

Comment: *USCG clarified that the discharge received from the LOWS at the WWTP is treated effluent.*

Response: EPA appreciates the clarification; no change is needed in the permit.

28. Facility Planning Requirement

Comment: *USCG pointed out that the Facility Planning requirement was mentioned in the fact sheet but not found in the draft permit.*

Response: EPA appreciates the USCG’s careful reading of the two documents; the Facility Planning Requirement is a standard requirement for most WWTPs; it has been added to the permit.

29. Anti-degradation

a. Comment: *USCG requests reconsideration of “the claim of antidegradation . . . in light of the action taken by the EPA in its letter dated September 3, 1980. . .”*

Response: As stated in the Fact Sheet, the antidegradation policy is designed to protect existing water uses and the level of water quality necessary to protect existing uses. If the water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality must be maintained and protected unless ADEC allows the reduction of water quality for a short-term variance after application and submittal of sufficient evidence. Such variances are allowed only in certain circumstances, when necessary to accommodate important economic or social development in the area where the water is located. USCG has not made such an application or demonstration. EPA does not agree that the 9/3/80 letter relates to this issue. No change in the permit is warranted.

30. Clarification on Non-use of Chlorine

a. Comment: *USCG stated that “chlorine is not being used at this time because the*

EPA in a letter dated September 3, 1980 notified the USCG that chlorination and fecal coliform monitoring will no longer be required at the ISC Kodiak WWTP, and as such, past State permits have set fecal coliform limits based on water quality-based limits”

Response: EPA acknowledges the comment; no change in the permit is warranted.

31. Treatment as a POTW

Comment: *USCG requests a “statement of authority for deviation from the definition of POTW in 40 CFR §403.3, and that the Kodiak facility be considered and described as a Federally Owned Treatment Facility (FOTW).”*

Response: EPA recognized on page C-1 of the Fact Sheet that this is a federally-owned treatment works and went on to explain why secondary treatment requirements for POTWs were applied through the use of best professional judgment (BPJ). No deviation from the definition at 40 CFR §403.3 occurred; EPA did not define the USCG facility as a POTW. It applied secondary treatment requirements that apply to POTWs to this facility based on the application of BPJ.

32. Steller’s Eiders, a Threatened Species

a. Comment: *USCG objects to EPA’s reporting of autopsies on Steller’s eiders related to high fecal coliform levels and claims that it is not supported scientifically nor is it relevant to this discharge or draft permit.*

Response: EPA acknowledged in the Fact Sheet that this information was not yet definitive; we agree with the FWS that risk to a threatened species in one location from a pollutant of concern should suggest caution in similar situations affecting that same species. No change in the permit is requested or warranted.

b. Comment: *USCG agrees with the assessment that issuance of this permit is not likely to adversely affect the Steller’s eiders in the vicinity but objects to additional monitoring requested by FWS because of cost. It claims lack of scientific evidence or conclusion.*

Response: EPA understands the concern of the FWS about the effect of persistent, bioaccumulative toxics (PBTs) and endocrine disrupting chemicals (EDCs) on endangered and threatened species, in this case, specifically on Steller’s eiders. Because of the volume and nature of this facility’s effluent as well as the presence of endangered/threatened species, EPA believes that this sampling to collect additional information is justified. Recent scientific evidence submitted by FWS indicates that these chemicals are present in treated domestic wastewater and that they may be affecting wildlife in previously unrecognized ways. EPA appreciates that additional testing may increase the cost. It was for this reason that we requested a modified recommendation from FWS and incorporated this testing with the expanded effluent testing proposed in

the draft permit. The requirement in the final permit only adds the analysis of six chemicals to the expanded effluent testing and does not increase the monitoring requirements. See the response to #2 above.

33. **Typographical errors**

Comments: *USCG pointed out the following typographical and other minor errors:*

- a. *Page 4, Table 1, note 3: change Part III.G.4 to Part II.G.4.*
- b. *Page 13, paragraph E.4: Change §I.E, to §I.F.*
- c. *FACT SHEET, page 8, III Second paragraph: eliminate on [sic] period at end of 6th sentence.*
- d. *FACT SHEET, page B-1, II. Paragraph one, add word “treated” before “effluent”.*
- e. *FACT SHEET, page B-1, II. Paragraph two, second sentence change “are” to “is”.*
- f. *FACT SHEET, page C-6, III.A.4.a. Reference difficult to read due to type font - 40CFR122.44(l)(1) [letter “el” followed by numeral one]*

Response: EPA appreciates the thorough review of the draft permit and fact sheet and has made the corrections suggested for the permit in Table 1, Note 3 and in §I.E.4 (now §I.E.5). As indicated above, the fact sheet is not being changed at this point because it is a final document.