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[Notices]  
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ENVIRONMENTAL PROTECTION AGENCY  
[FRL-7396-9]

Proposed Modification of and Request for Additional Public Comment on  
the General National Pollutant Discharge Elimination System Permits  
for Log Transfer Facilities in Alaska: AK-G70-0000 and AK-G70-1000

AGENCY: Environmental Protection Agency (EPA).  
ACTION: Notice of proposed modification of and request for additional  
public comments on general NPDES permits for log transfer facilities in  
Alaska.

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SUMMARY: The Director, Office of Water, EPA Region 10, provides notice  
of and requests public comment on proposed modifications of the two  
general National Pollutant Discharge Elimination System (NPDES) permits  
for Alaskan log transfer facilities (LTFs), which include log storage  
areas (LSAs), that were issued on March 7, 2000 (65 FR 11999): NPDES  
permit no. AK-G70-0000, which modifies Clean Water Act (CWA) section  
404 dredge-and-fill permits issued to LTFs by the U.S. Army Corps of  
Engineers (ACoE) prior to October 22, 1985, by adding CWA section 402  
effluent limitations and conditions to those permits, and NPDES permit  
no. AK-G70-1000, which may cover all other log transfer facilities in  
Alaska.

The EPA issued two general permits for Alaskan log transfer  
facilities on March 7, 2000. In response to petitions to review the  
permits brought by the Natural Resources Defense Council and nine other  
petitioners, the United States Court of Appeals for the Ninth Circuit,  
on February 13, 2002, ruled that the EPA did not provide adequate  
notice of and opportunity to comment on the general NPDES permits AK-  
G70-0000 and AK-G70-1000 and remanded the permits to the EPA to take  
further comment on the project area Zone of Deposit (ZOD) authorized by  
the Alaska Department of Environmental Conservation (ADEC), and  
subsequently included in the final permits by the EPA. To comply with  
the Ninth Circuit's order, the EPA is seeking public comment on the  
authorization of a ``project area'' zone of deposit for trace,  
discontinuous, and continuous coverage in the general permits.

The EPA also is proposing to modify these permits. The most  
significant proposal would add a limit on continuous coverage within  
the project area zone of deposit, but would retain the project area  
zone of deposit limit for bark and woody debris for trace,  
discontinuous, and continuous coverage if less than one acre and less  
than 10 centimeters in depth. This notice seeks comment on the proposed  
major modifications. Finally, the notice describes various minor  
modifications the EPA is making to correct typographical errors.

DATES: Interested persons may submit written comments on the proposed  
modifications to general NPDES permits AK-G70-0000 and AK-G70-1000 and  
on the project area zone of deposit on or before December 23, 2002.

ADDRESSES: Comments must be sent to the attention of Alaskan LTF Public

Comments, EPA Region 10 (OW-130), 1200 Sixth Avenue, Seattle, WA 98101. All comments should include the name of the commenter, a concise statement

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of the comment, and the relevant facts upon which the comment is based.

FOR FURTHER INFORMATION CONTACT: The NPDES Permits Unit, EPA Region 10 Office of Water, Seattle, Washington, at (206) 553-0775.

SUPPLEMENTARY INFORMATION: General NPDES permits AK-G70-0000 and AK-G70-1000 regulate the discharge of woody debris (e.g., bark and branches) at log transfer facilities (LTFs), which include log storage areas (LSAs), along the Southeast Alaskan coast. Woody debris is generated in the transfer of the de-limbed trunks of felled trees from upland storage lots to floating holding areas. The agency developed numerous technical documents in support of the control of pollution associated with the transfer and storage of logs (e.g., USEPA 1973, The Influence of Log Handling on Water Quality; USEPA 1976, Effects of Log Handling and Storage on Water Quality; USEPA 1996, Ocean Discharge Criteria Evaluation of the NPDES General Permit for Log Transfer Facilities). The EPA has relied further upon supporting research from other sources (e.g., Pease 1974, Effects of Log Dumping and Rafting on the Marine Environmental of Southeast Alaska; NMFS 1976, Some Effects of Log Dumping on Estuaries; Conlan and Ellis 1979, Effects of Wood Waste on Sand-bed Benthos; Freese and O'Clair 1984, Response of the Littleneck Clam and the Edible Mussel Exposed to Decomposing Wood Waste from a Log Transfer Facility; USFS 1986, Relationship between Bark Loss and Log Transfer Method; Jackson 1986, Effects of Bark Accumulation on Benthic Infauna at a Log Transfer Facility in Southeast Alaska).

The EPA, together with the State of Alaska, the U.S. Army Corps of Engineers, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Alaskan timber industry and representatives of the public, participated in the Governor of Alaska's Alaska Timber Task Force (ATTF) to develop guidelines to control detrimental impacts of LTFs to water quality, aquatic life, and habitat. The ATTF issued the ``Log Transfer Facility Siting, Construction, Operations and Monitoring/Reporting Guidelines' (1985 hereafter, ``Guidelines'). The ATTF recognized that LTFs impose a much greater physical stress upon the environment than chemical stress and accordingly emphasized protective siting and operational practices, supported by monitoring, to control pollution and impacts to the environment.

#### The Project Area Zone of Deposit for Bark and Woody Debris

The EPA has tentatively determined that a project area zone of deposit for trace, discontinuous, and continuous coverage of bark and woody debris on the seafloor is appropriate because the Alaska Water Quality Standard (AWQS) for residues is zero. The inclusion of areas of trace and discontinuous bark accumulations in the zone of deposit authorized under the AWQS is consistent with prior zones of deposit issued for LTFs and to the factual reality of how bark is distributed when discharged from LTFs. Depositional patterns of bark from LTFs, coupled with existing information that indicates that environmental harm results from complete coverage, but not trace and discontinuous coverage, supports the State of Alaska Department of Environmental Conservation's Certificates of Reasonable Assurance on the general permits which authorized a project area zone of deposit to limit all potential accumulations of bark and woody debris.

Previous individual LTF permits contained zones of deposit limited to 100% coverage exceeding both one acre in size and a thickness greater than 10 centimeters at any point as a fixed limit. However, trace and discontinuous coverage, although known to occur, was not specifically limited. According to the ADEC, those previous LTF zones of deposit did not recognize and address the reality that the deposits of bark and other woody debris include a continuum from trace amounts to piles. See July 29, 1999 ADEC letter, page 2. The ADEC further explained that under the AWQS no accumulation is allowed, thus, ``to authorize an acre of continuous coverage while ignoring the thinner deposits that surround it simply does not acknowledge what really occurs.'' Page 2, ADEC July 29, 1999 letter. Based on existing information, a zone of deposit for trace, discontinuous, and continuous bark and woody debris covering the area of the LTF project is protective of the environment as long as continuous coverage is separately addressed. The ADEC has determined, in the present permit as in past permits, to address the accumulation of continuous bark of 10 cm thickness to one acre, though it has determined that this area is a threshold for remediation in lieu of a limit on the extent of the zone of deposit.

In accordance with the Ninth Circuit's Order, the EPA is seeking comment on this issue.

Proposed Major Modifications to General NPDES Permits AK-G70-0000 and AK-G70-1000

Major modifications are proposed for the general NPDES permits. Table 1 below summarizes the major modifications. The basis for the proposed major modifications are contained in this Notice. Two draft permits containing the proposed modifications are available for public review.

The EPA proposes to make substantive changes in both permits to: (1) Revise the authorization process; (2) set a limit on the area of continuous bark deposit; (3) revise the threshold for revising the Pollution Prevention Plan for controlling bark deposition; and (4) revise the monitoring requirements pertaining to the deposition of bark.

The proposed major modifications to the general NPDES permits for Alaskan LTFs addresses new information received in implementing the general NPDES permits, and contained in the Memorandum, Final Order and Final Decision issued on May 10, 2002, by the Alaska Department of Environmental Conservation in an administrative appeal of the State's Section 401 Certificates of Reasonable Assurance for the general NPDES permits. The Memorandum, Final Order and Final Decision of the ADEC upheld the State Certificates, except as to its application to discharges in impaired waterbodies.

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Table 1.--Proposed Major Modifications of General NPDES Permits for Alaskan Log Transfer Facilities

[Pursuant to 40 CFR 122.62(a)]

page of	Issue	Section and page of final NPDES permit No.	Section and final NPDES permit No.
(3/21/00)	Substance of modification	AK-G70-0000 (3/21/00)	AK-G70-1000

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Under ADEC Order, permit coverage  
III.E Delete language allowing  
and authorization to discharge  
(p. 9). the Director of EPA Region  
cannot occur without the submittal  
10 Office of Water to  
and acceptance of a Notice of  
cover a facility without  
Intent to be Covered (NOI) or  
an NOI or Notification and  
Notification and an authorization  
add language that an LTF  
of a zone of deposit by the ADEC.  
is not authorized to be

I.A (p. 1) and IV.E  
(p. 8).

I.B (p. 1) and  
(p. 5) and V.A

covered without both (1)  
submittal of a complete  
and accurate NOI; and (2)  
State approval for  
coverage and authorization  
of a zone of deposit in a  
written decision document;  
delete language giving the  
ADEC option to rescind the  
zone of deposit for a  
permitted facility.

Under ADEC Order, LTFs located in  
4)..... Delete the qualification  
waterbodies impaired for bark  
``new'' for dischargers in  
residues cannot be authorized  
waterbodies impaired by  
under a general NPDES permit.  
bark residues.

I.A (p. 1)..... III.C.1 (p.

In view of the new bark surveys and  
6)..... Include an explicit limit  
information, the threshold of 1.0  
that the continuous  
acre of 100% coverage at a  
coverage of bark at a  
thickness greater than 10 cm at  
thickness greater than 10  
any point must be a limit in order  
cm at any point shall not  
to protect the AWQS.  
exceed 1.0 acre.

III.A.3 (p. 3)..... IV.A.3 (p.

In view of the new bark surveys and  
Reduce the threshold for  
information, a reduction in  
and the development and

III.B.13 (p. 4), VI.F  
(p. 18) and VI.I (p.

IV.B.1.h (p. 7),  
VII.F.6 (p. 23),

discharges should be addressed in 18). VII.I (p. 23).  
 implementation of  
 the Pollution Prevention Plan  
 pollution prevention  
 before an LTF reaches or exceeds  
 practices to control bark  
 the ADEC's threshold of 1.0 acre  
 deposits from 1.0 A to  
 of continuous coverage of bark and  
 0.75 A and apply it to  
 woody debris in excess of 10 cm  
 both shore-based and off-  
 thickness at any point in order to  
 shore LTFs in AK-70-1000;  
 prevent an exceedance of this  
 add this condition to AK-  
 limit.  
 G70-0000.

Monitoring of continuous bark V.D.7 (p. Modify the maximum depth deposition should be conducted to 16) for the monitoring of a depth of -100 ft, the maximum and continuous bark deposits depth of 'SCUBA diving without an from -60 ft mean lower low on-site decompression chamber' water to -100 ft, without under OSHA, to support the reference to mean lower protection of the AWQS and to be low water. consistent with statewide SCUBA monitoring.	III.E (p. 5), V.C.1 (p. 11), V.C.3 (p. 11), and V.C.5 (p. 12).	IV.E (p. 9), 13), VI.C.1 (p. VI.C.3 (p. 16) VI.C.5 (p. 17).
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Since the general NPDES permits were issued in 2000, the EPA has compiled the information obtained from LTFs applying for coverage under the general NPDES permits to obtain a better understanding of the industry. The EPA has learned that 56% of the facilities seeking coverage under the general permits have less than 0.25 acre of continuous bark coverage (i.e., 100% bark coverage greater than 10 cm at any point), 33% have 0.25 to 1.0 acre of continuous coverage, and 11% have more than one acre of continuous coverage. Thus, nine out of ten LTFs applying for coverage under the two general NPDES permits have less than 1.0 acre of continuous bark accumulation. In addition, 71% of the applicant LTFs have less than one acre of discontinuous bark coverage (i.e., 10% to 99% bark coverage), 16% have 1.0 to 2.0 acres of discontinuous coverage, and 12% have more than two acres of discontinuous bark coverage of the seafloor. Again, then roughly nine out of ten LTFs applying for coverage have less than 2.0 acres of discontinuous coverage. The EPA also has obtained information on the patterns, variations, and causes of bark deposition in time and space. Based on analysis of this information, indications are that eight LTFs have continuous coverage of more than one acre, thus, likely will require individual permits with site-specific assessments in order to receive an NPDES authorization to discharge.

The first proposed change in the general NPDES permits relates to the State's Final Decision. The ADEC has established a process for analyzing applicability of the antidegradation and zone of deposit

provisions for LTFs that seek authorization under the general permits. That process was upheld in the Final Decision. EPA is proposing to modify the general permits to delete the provision that the Director of the EPA may cover an LTF even if the discharger has not submitted an NOI or Notification. These deletions occur at permit sections I.A (p. 1) and IV.E (p. 8) of AK-G70-0000 and sections I.B (p. 1), III.E (p. 5) and V.A (p. 9) of AK-G70-1000, as indicated in Table 1 (above).

The second proposed change is also necessary to implement the ruling in the State Final Decision. The Final Decision held that a general permit cannot be used to authorize discharges in a waterbody listed as impaired under CWA section 303(d), 33 U.S.C. 1313(d). Under AK-G70-1000, ``new'' dischargers could not be authorized to discharge into waterbodies listed as impaired under either section 303(d) or section 305(b)., Under today's proposal, no dischargers, whether new or existing, could be authorized to discharge into waterbodies listed as impaired for residues under either section 303(d) or section 305(b). The deletion of the term ``new'' occurs at permit section III.C.1 (p. 4) of AK-G70-1000, as indicated in Table 1 (above). General permit AK-G70-0000 does not include any restriction concerning discharges into impaired waterbodies, but would be modified to specify that no discharge of

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pollutants from the facility is authorized under the permit until the ADEC completes its analysis and authorizes the project area zone of deposit. That modification to general permit AK-G70-0000 will occur in section I.A (p. 1).

The third proposed change is based on dive surveys of bark deposition at applicant LTFs. According to these surveys, eight facilities have continuous bark deposits that exceed one acre and four of these LTFs have continuous bark deposits that exceed 2.0 acres. The recent dive surveys indicate that the area of discontinuous bark coverage at these eight LTFs ranges from 0.4 to 10.4 acres and that bark deposits at some LTFs have increased by more than two acres in one year. Under section 301(b)(1)(C) of the Clean Water Act, NPDES permits must include any limitations, standards, or other permit conditions necessary to comply with or implement water quality standards. 33 U.S.C. 1311(b)(1)(C) and 40 CFR 122.44(d). The EPA has tentatively determined that a limit on continuous coverage of bark and woody debris on the seafloor within the project area of a LTF is needed to meet water quality standards and prevent unreasonable degradation of the marine environment. The modified general permits, as proposed, include an explicit limit on continuous coverage of the seafloor at section III.A.3 (p. 3) of AK-G70-0000 and section IV.A.3 (p. 6) of AK-G70-1000, as indicated in Table 1: ``a permittee shall not exceed 1.0 acre of continuous coverage of the seafloor by 100% bark and woody debris with a thickness of 10 cm or greater at any point.'' A permit limit in the general NPDES permits for continuous coverage will ensure that levels of bark and woody debris accumulating on the seafloor which present the most potential for environmental harm will not occur during the term of the permit. The Guidelines provide that at one acre of continuous coverage regulatory discretion to require cleanup is appropriate. The general NPDES permits include siting criteria and operational practices for log transfer facilities that reduce the discharge of bark and wood debris from LTFs. The EPA's information indicates that, for a majority of the operating LTFs, these conditions and practices successfully limit accumulations of bark and woody debris to under one acre of continuous coverage and less than 10 centimeters in depth. Moreover, previous individual LTF permits limited continuous coverage to one acre and 10 centimeters in depth, thus, it may be backsliding to eliminate

that limit as to those facilities.

Under the current permits, the permittee is required to develop and implement additional practices through revisions to its Pollution Prevention Plan if its continuous coverage reaches one acre in size. The fourth change the EPA is proposing would lower the threshold for the need of a permittee to revise its Pollution Prevention Plan from one acre to .075 of an acre, thus, before a permittee reaches the permit limit of one acre of continuous coverage. This proposed modification has the same basis as the third proposed modification discussed above. The reduction of the threshold from 1.0 acre to 0.75 acre occurs at permit sections III.B.13 (p. 4), VI.F (p. 18) and VI.I (p. 18) of AK-G70-0000 and sections IV.B.1.h (p. 7), VII.F.6 (p. 23) and VII.I (p. 23) of AK-G70-1000, as indicated in Table 1 (above).

The fifth change in the permits would modify the monitoring requirements based on the bark surveys indicating that continuous bark deposition has been observed at depths of -60 ft MLLW at a number of facilities and undoubtedly extends into deeper water. The EPA has tentatively determined that a more accurate assessment of bark deposition at LTFs, specifically the continuous coverage, requires that the monitoring of bark deposits extend out to -100 feet in depth. The 100 foot depth is the limit for commercial scuba diving without an on-site compressor that has been set by the U.S. Occupational Safety and Health Administration. The AWQS criteria of "no residues on the bottom" applies to any depth of water in the State of Alaska. Given the standard and given the proposed limit of one acre of continuous coverage, the EPA is proposing to require that the maximum depth for bark monitoring for continuous coverage of bark be -100 feet, rather than -60 feet. The permit modifications occur at sections III.E (p. 5), V.C.1 (p. 11), V.C.3 (p. 11) and V.C.5 (p. 12) of AK-G70-0000 and sections IV.E (p. 9), V.D.7 (p. 13), VI.C.1 (p. 16), VI.C.3 (p. 16) and VI.C.5 (p. 17) of AK-G70-1000, as indicated in Table 1 (above).

In accordance with 40 CFR 122.62, EPA is seeking comment on the proposed modifications discussed above. Only the conditions to be modified are being reopened by the draft permits, and public comment is only being sought on the proposed modifications. See 40 CFR 124.5.

Proposed Minor Modifications to General NPDES Permits AK-G70-0000 and AK-G70-1000

The following minor modifications will be made to the general permits. In accordance with 40 CFR 122.63(a), no comment is being requested on these modifications.

Table 2.--Minor Modifications of General NPDES Permits for Alaskan Log Transfer Facilities

(Pursuant to 40 CFR 122.63(a)--Typographical Errors)

page of permit No.	Issue Substance of Modification	Section and page of final NPDES permit No.	Section and final NPDES
(3/21/00)		AK-G70-0000 (3/21/00)	AK-G70-1000
	No provision is made for written 3)..... Provide for the federal permission to operate and permission from the	Not applicable.....	III.A.5 (p.

discharge in national wilderness  
appropriate official of  
areas and monuments.  
the management agency'' to

discharge in a national  
wilderness area and

monument.

The spelling of ``affect'' is Not applicable..... III.A.8 (p.  
3)..... Correct typographical error  
incorrect.

such that ``affect'' is

spelled correctly.

Request for a waiver to discharge Not applicable..... III.D (p.  
5)..... Clarify that the

in an excluded area is limited to  
opportunity to request a  
the areas not meeting the Alaska  
waiver of the exclusion  
Timber Task Force Guidelines and  
from discharge is limited  
does not apply to either

to the category ``Areas  
``Protected Water Resources and  
not Meeting the Alaska  
Special Habitats'' or ``Impaired  
Timber Task Force  
Waterbodies''.

Guidelines'' by changing

the caption of the section

appropriately.

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The acronym ``ZOD'' is without Not applicable..... III.E (p.  
5)..... Make an editorial addition  
reference to ADEC's Zone of

of the ``Zone of Deposit''

Deposit.

in conjunction with the

use of the acronym

``ZOD''.

Enumeration of the section V.C.6 (p. 14)..... Not  
applicable..... Correct typographical error

addressing the contents of Bark  
such that ``(ii'' becomes

Monitoring and Reporting is  
``h'').

incorrect.

The 50 and 100 ft transect V.C.5 (p. 12)..... VI.C.5 (p.  
18)..... Modify the distance between

increments are not consistent with

bark monitoring stations

the ADEC certification.

along a transect from 50  
and 100 ft intervals to 15  
ft intervals.

Necessity of providing information Not applicable..... V.D.4  
(p.11)..... Make the provision of  
on ACoE's Section 404 permit  
information pertaining to  
within a Notice of Intent to be  
the ACoE permit name,  
Covered under a general NPDES  
number and date of  
permit (NOI) is unclear.  
issuance mandatory for the  
NOI by deleting the term

``if applicable''.  
Enumeration of the section VI.F (p. 17)..... VII.F (p.  
23)..... Correct typographical error  
addressing the contents of the  
such that number 1 of 1 is  
Pollution Prevention Plan is  
removed and letters ``a''  
incorrect.  
though [a=f]  
become ``1

through 6''.  
Enumeration of the section VII.I (2nd occurrence) Not  
applicable..... Correct typographical error  
addressing the Effectiveness of (p. 19).  
such that ``VII.I''  
the Pollution Prevention Plan is  
becomes ``VII.J''.  
incorrect.  
``Continuous'' and Throughout permit..... Throughout  
permit..... Correct typographical error  
``discontinuous'' throughout both  
such that ``...tinuous''  
permits are misspelled.  
becomes ``...tinuous.

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Administrative Record: The two draft general NPDES permit nos. AK-  
G70-0000 and AK-G70-1000, and this Federal Register Notice are  
available for inspection and copying at six locations: (a) EPA-Juneau,  
709 West 9th Street, Room 223A; (b) ADEC-Juneau, 410 Willoughby Avenue,  
Suite 200; (c) EPA-Anchorage, 222 West 7th Avenue, Room 19; (d) ADEC-  
Anchorage, 555 Cordova Street; (e) ADEC-Ketchikan, 540 Water Street;  
and (f) EPA-Seattle, 1200 Sixth Avenue, 10th floor library. These  
documents are also available on EPA Region 10's Internet site at <A  
HREF="http://www.epa.gov/r10earth/">http://  
www.epa.gov/r10earth/</A>. The administrative record for the proposed  
modifications reflected in the draft general NPDES permits AK-G70-0000  
and AK-G70-1000 and the project area zone of deposit can be reviewed in  
EPA's Seattle Office, 1200 Sixth Avenue, 13th Floor.

Dated: October 11, 2002.

Randall F. Smith,  
Director, Office of Water, Region 10.  
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