

**ACMP Consistency Determination
for the
U.S. Environmental Protection Agency's
National Pollutant Discharge Elimination System (NPDES)
Small Suction Dredge General Permit
Permit No. AKG-37-5000**

This consistency analysis and certification statement follows the format and questions in the Alaska Coastal Management Program's "Guide to Preparing an ACMP Consistency Determination for Federal Facilities" (as revised 1/06).

Agency Information

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Project Information

1. This action is a "modification to an existing project." Namely, EPA is reissuing the National Pollutant Discharge Elimination System (NPDES) Small Suction Dredge General Permit (GP) for a five-year permit term. The draft General Permit (GP) would authorize discharges from suction dredges in compliance with Best Management Practice (BMP) requirements of the GP.

EPA previously issued the GP in Alaska on June 3, 2002 (see 67 FR 22082) and the five year permit term expires on June 4, 2007. EPA plans to public notice a draft GP for a subsequent five-year period, and accepted public comment on that draft concurrent with the submission of this Determination. EPA requests concurrence from the Alaska Coastal Management Program that the GP is consistent with the ACMP and applicable coastal district policies. EPA has received a draft certification of the GP under Clean Water Act (CWA) § 401 by the Alaska Department of Environmental Conservation which will be included in the draft permit package. Final certification will be requested after the completion of the comment period and the response to comments, and a proposed final permit are prepared.

2. EPA's action to issue the NPDES GP was previously reviewed by the Alaska Department of Governmental Coordination on March 18, 2002.

3. No local, state, or federal permits are required for EPA to issue this

Project Description

A. Detailed Description

This draft GP is a reissuance of the GP scheduled to expire June 4, 2007.

Dredging systems are classified as hydraulic or mechanical (including bucket dredging), depending on the methods of digging. This GP is intended to regulate small suction dredges, the most common hydraulic dredging system. These are quite popular in Alaska with the small or recreational gold placer miner. Like all floating dredges, suction dredges consist of a supporting hull with a mining control system, excavating and lifting mechanism, gold recovery circuits, and waste disposal system. All floating dredges are designed to work as a unit to extract and classify material, beneficiate ores and dispose of waste. Because suction dredges work the stream bed rather than stream banks, the discharge from suction dredges consists totally of stream water and bed material.

In the 1997 permit, EPA defined a small suction dredge as those with nozzles less than or equal to four inches and in the 2002 permit, EPA expanded the small suction dredge range to less than or equal to six inches. Information provided in EPA's suction dredge study and the United States Geological Survey (USGS) study supported the conclusion that there are local but short term effects on both water quality and macroinvertebrate communities in the mining areas. On the Fortymile River, dredges larger than those proposed under this GP showed that turbidity was reduced to background levels within 250 feet. It is expected that small dredges would have even less impact on the downstream receiving water quality. The results from Resurrection Creek indicated that there was no difference in the macroinvertebrate community between the mining area and the locations downstream of the mining area in terms of macroinvertebrate density and taxa richness. The sampling was done 35 days after mining had been completed for the season and shows a rapid recovery of the mined areas. EPA is proposing to keep the suction dredge size the same as the 2002 permit.

B. Project Time Line

EPA expects to reissue the GP before it expires with an effective date immediately following the expiration date. The proposed GP would be effective for a five year term. If EPA does not have a permit in place upon expiration of the current GP, the provisions of the GP may be administratively extended for covered facilities until EPA reissues the GP.

C. Site Plan

An applicant is required to submit the location of the facility in the Notice of Intent

to be authorized under this GP.

D. Other Supporting Documentation

Enclosed with this Consistency Determination are 1) the draft GP as described above; 2) the fact sheet supporting the reissuance of the GP which includes Alaska Department of Environmental Quality draft certification under CWA § 401 and 3) a listing of all currently permitted facilities in Alaska under the GP.

E. Proposed Construction Techniques

Not Applicable.

Project Location

EPA does not have a map of the location of all permitted facilities at this time but suction dredging occurs in almost every part of the State. The majority of these facilities can be found in the Interior, the Kenai Peninsula and off-shore of the Seward Peninsula.

EPA's proposed General Permit is available to authorize eligible discharges from suction dredge facilities located on State, private, Federal, municipal, and Tribal lands in all regions of the state of Alaska except those areas prohibited or limited by the conditions of the GP. Some of these facilities may be located in areas with approved coastal zone management programs. A list of currently permitted facilities is included in the supporting documentation.

Consistency with the Enforceable Policies of the Alaska Coastal Management Program

11 AAC 112.200 - COASTAL DEVELOPMENT

Is this activity located in or adjacent to coastal waters?

No, EPA's action of reissuing the General Permit is not itself located in or adjacent to coastal waters. EPA may authorize discharges under this NPDES permit from facilities which could be located in coastal waters.

Is this activity water-dependent or water-related?

No, EPA's action of reissuing the General Permit is not, in itself, water dependent. However, the draft GP would authorize qualifying discharges into fresh or marine waters. The activities covered by this GP are water-dependent. Since the facilities are small and activity occurs in the water, it is not expected to have an affect on coastal development. The GP requires that facilities use Best Management Practices (BMPs) to effectively reduce pollution in the waterbody to avoid violating Alaska's water quality standards.

11 AAC 112.210 - NATURAL HAZARD AREAS

Is this activity located in a designated natural hazard area?

No, EPA's action of reissuing the General Permit is not, itself located in a natural hazard area. However, the General Permit may authorize discharges which originate from or flow across natural hazard areas. The facility must comply with all applicable State, local and tribal requirements. Local requirements more appropriately address the siting of the facility and should ensure that adequate consideration be given to discharge activities in geophysical hazard zones.

11 AAC 112.220 - COASTAL ACCESS

Does this activity negatively affect public access to coastal water?

No, EPA's action to reissue the General Permit does not negatively affect public access to coastal water. Appendix C of the GP carries a provision from the last ACMP review that reads "Dredging shall not block or restrict public access . . ."

11 AAC 112.230 - ENERGY FACILITIES

Have you contacted the coastal district where the project will be located?

Not applicable.

Are energy facilities sited inland from beaches or shorelines?

Not applicable.

11 AAC 112.240 - UTILITY ROUTES AND FACILITIES

Have you contacted the coastal district where the project will be located? Are utility routes and facilities sited inland from beaches or shorelines?

Not Applicable.

11 AAC 112.250 - TIMBER HARVEST AND PROCESSING

Not applicable.

11 AAC 112.260 - SAND AND GRAVEL EXTRACTION

Not applicable.

11 AAC 112.270 – SUBSISTENCE

Is this activity located in a designated subsistence area?

The General Permit may authorize a facility's wastewater discharges to water bodies which may be within designated subsistence zone areas. The General Permit requires owners and operators of a permitted facility to comply with all applicable State, local or Tribal requirements and contains a provision in Appendix C that reads "Dredging shall not . . . adversely impact aquatic species harvested by subsistence users. As a result of these requirements, EPA feels that the re-issuance of the General Permit is consistent to the maximum extent practicable with the ACMP for this set of criteria.

11 AAC 112.280 - TRANSPORTATION ROUTES AND FACILITIES

Are transportation routes and facilities sited inland from beaches or shorelines?

Not applicable.

11 AAC 112.300 – HABITATS

1. Offshore areas must be managed to avoid, minimize, or mitigate significant adverse impacts to competing uses such as commercial, recreational, or subsistence fishing, to the extent that those uses are determined to be in competition with the proposed use.

The draft GP authorizes discharge to marine environment. This is especially prevalent off-shore of Nome in the State's recreational area.

For facilities which discharge to waters of the U.S., the General Permit provides for the maintenance of Alaska's fisheries. The permit sets technology-based limitations in the form of Best Management Practices that apply to the discharges associated with these activities. The permit includes provisions that, if exceedances of water quality standards occur, the permittee shall take corrective actions to ensure that future discharges do not cause or contribute to violations of water quality standards. The State of Alaska water quality standards (WQS) are established to protect aquatic communities.

2. Estuaries must be managed to avoid, minimize, or mitigate significant adverse impacts to adequate water flow and natural water circulation patterns; and competing uses such as commercial, recreational, or subsistence fishing, to the extent that those uses are determined to be in competition with the proposed use.

This permit emphasizes Best Management Practices which include a condition

that reads: “No damming or diversions are authorized. This includes inadvertent damming caused by tailing placement, which could change hydrology.”

3. & 4. Wetlands must be managed to avoid, minimize, or mitigate significant adverse impacts to water flow and natural drainage patterns. Tide flats must be managed to avoid, minimize, or mitigate significant adverse impacts to water flow and natural drainage patterns; and competing uses such as commercial, recreational, or subsistence uses, to the extent that those uses are determined to be in competition with the proposed use.

Wetland and tide flat habitat areas are protected through the permit requirements regarding compliance with State, local and tribal requirements, in particular compliance with the federal Endangered Species Act. The permit contains specific timing restrictions in areas of concern as expressed by the U.S. Fish and Wildlife Service. The permit requires operators to manage their operations to meet all applicable water quality standards.

5. Rocky islands and sea cliffs must be managed to avoid, minimize, or mitigate significant adverse impacts to habitat used by coastal species; and avoid the introduction of competing or destructive species and predators.

Activities which might harass wildlife, or introduce competing or destructive species, would be dealt with under other federal/state/local laws, and are not covered by the terms of this GP.

6. Barrier islands and lagoons must be managed to avoid, minimize, or mitigate significant adverse impacts to flows of sediments and water; from the alteration or redirection of wave energy or marine currents that would lead to the filling in of lagoons or the erosion of barrier islands; and from activities that would decrease the use of barrier islands by coastal species, including polar bears and nesting birds.

The GP includes BMPs which are designed to control bank erosion and to avoid changes in hydrology, combined with the requirement to be in compliance with federal, state, or local requirements, should avoid the alteration or redirection of wave energy.

7. Exposed high-energy coasts must be managed to avoid, minimize, or mitigate significant adverse impacts to the mix and transport of sediments; and from redirection of transport processes and wave energy.

As mentioned above, BMPs are designed to control bank erosion and to avoid changes in hydrology, combined with the requirement to be in compliance with

federal, state, or local requirements, and should avoid the alteration or redirection of wave energy.

8. Rivers, streams, and lakes must be managed to avoid, minimize, or mitigate significant adverse impacts to natural water flow; active floodplains; and natural vegetation within riparian management areas.

As mentioned previously, the permit requires discharge compliance with Alaska water quality standards; in addition, facility operators must use BMPs that maintain and protect the natural physical and biological characteristics and functions of the receiving water. In combination with the requirements to comply with all other Federal, state and local laws, the GP will help ensure that the integrity of rivers, streams and lakes are preserved.

9. Important habitat designated under 11 AAC 114.250(h) must be managed for the special productivity of the habitat in accordance with district enforceable policies adopted under 11 AAC 114.270(g); or identified under previously must be managed to avoid, minimize, or mitigate significant adverse impacts to the special productivity of the habitat.

The discharges authorized under this GP do not affect upland areas so renewal of this GP should not adversely affect the surrounding habitat, and will be addressed by existing federal, state or local laws.

11 AAC 112.310 - AIR, LAND, AND WATER QUALITY

The GP sets limitations in the form of Best Management Practices designed to ensure that discharges do not cause or contribute to exceedances of water quality standards in the receiving water. In addition, the permit will include any specific additional water quality requirements outlined through the CWA § 401 certification or the ACMP review processes. As a result, EPA feels that the re-issuance of the General Permit is consistent to the maximum extent practicable with the ACMP for this set of criteria.

11 AAC 112.320 - HISTORICAL, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES

Does the project involve disturbance, investigation, or removal of known historical or archaeological resources?

It is unlikely that discharges authorized under this GP would affect historical, prehistoric, and archaeological resources.

