

**ACMP Consistency Determination for
General NPDES Permit (AKG-33-0000)
Facilities Related to Oil and Gas Extraction**

The enclosed certification statement is based upon the requirements listed in 15 CFR Part 930.39 and the Alaska Department of Natural Resources/Division of Coastal and Ocean Management (DCOM)'s "Guide to Preparing an ACMP Consistency Determination for Federal Activities."

A. AGENCY INFORMATION

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B. PROJECT INFORMATION

The current North Slope General Permit (GP) authorizes the discharge of domestic wastewater (blackwater and/or graywater) from camps, gravel pit dewatering, construction dewatering, hydrostatic test water, storm water discharges and mobile response unit discharges in the coverage area of the North Slope Borough and off-shore of the Borough area.

The proposed reissuance of the North Slope General Permit (GP) would authorize the discharge of gravel pit dewatering, construction dewatering, hydrostatic test water, storm water discharges, and mobile response unit discharges in the coverage area of the North Slope Borough, off-shore of the Borough area, and for all but mobile spill response, the additional areas described below. EPA is proposing an addition outfall for discharges from secondary containment facilities.

EPA is removing domestic wastewater from the reissued permit. On October 31, 2008, EPA authorized ADEC to administer the NPDES program for the state of Alaska. ADEC is phasing the Program with different categories of discharges being phased in over a 3 year period. The transfer of domestic wastewater permits occurred during the first phase (upon authorization) but oil and gas permits will not transfer until the fourth phase which will occur 3 years later, October 2011.

To align this permit with the phasing sequence, ADEC has requested that EPA reissue the permit without the domestic/graywater components. The general permit, AKG-57-0000 (GP), for small domestic wastewater discharges, or some other general permitting mechanism will be utilized instead. This aligns the

treatment requirements for small discharges with similar discharges covered by the GP.

C. PROJECT DESCRIPTION

1. *Detailed Description.* The proposed reissuance of this GP is to continue permit coverage that has been authorized under the previous permit and to add additional discharges and coverage areas to the GP. These additional areas are described in the Fact Sheet that accompanies the draft GP.
2. *Time line.* The GP would be effective for a five year term
3. *Site plan.* An applicant is required to submit a site map with the Notice of Intent (NOI) to be authorized under this GP. The Storm Water Pollution Prevention Plan (SWPPP) for storm water discharges requires more detailed maps to determine the best practices for the control and management of storm water.
4. *Supporting documentation.* Please see the draft GP and Fact Sheet.
5. *Proposed best management practices.* Permittees are required to develop and implement a Best Management Practices (BMP) Plan. This requirement can be found in Permit Part II.G. For storm water discharges, the BMP Plan is part of the SWPPP required in Permit Part II.D.3.

D. PROJECT LOCATION

The maps that accompany the draft GP describe the area of coverage for this GP. The historical area of coverage has been the North Slope Borough and offshore of this area. This area is still included but the coverage area is being extended to include the Trans Alaskan Pipeline corridor and several corridors for potential new pipeline projects. The areas for these potential projects, in addition to running in or near the TAPs corridor, correspond to areas near several major highways in Alaska: the Glenn, the Parks and the Alaska. The exact alignments have not been decided so this GP proposes a corridor on 7 miles of each side of the features described in this paragraph.

E. CONSISTENCY WITH THE ENFORCEABLE POLICIES OF THE ALASKA COASTAL MANAGEMENT PROGRAM

1. *District Policies.* EPA has reviewed the project against the policies of the State and the Coastal Districts.

Regarding the Coastal District Policies, the regulations say:

11 AAC 114.270(f) states that, "In accordance with AS 46.40.040(b), a district may not address a matter regulated by the Department of

Environmental Conservation under to AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes.”

AS 46.40.040. [Statewide standards and district plan criteria] (b) states that AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted under those statutes constitute the exclusive enforceable policies of the Alaska coastal management program for those purposes. For those purposes only,

(1) the issuance of permits, certifications, approvals, and authorizations by the Department of Environmental Conservation establishes consistency with the Alaska coastal management program for those activities of a proposed project subject to those permits, certifications, approvals, and authorizations;

(2) for a consistency review of an activity that does not require a Department of Environmental Conservation permit, certification, approval, or authorization because the activity is a federal activity or the activity is located on federal land or the federal outer continental shelf, consistency with AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes shall be established on the basis of whether the Department of Environmental Conservation finds that the activity satisfies the requirements of those statutes and regulations.

AS 46.03.020(10)(A) provides for the adoption of regulations necessary to carry out the purposes of this chapter, including, by way of example and not limitation, regulations providing for the control, prevention, and abatement of water pollution. Also AS 46.03.050 states that “The department [of Environmental Conservation] has jurisdiction to prevent and abate the pollution of the waters of the state.”

Since Coastal Districts are precluded from establishing enforceable policies for water quality, and this determination is for a water quality permit, there should be no district policies applicable to the reissuance of this general permit.

2. *Alaska Coastal Management Program Standards*

The following analysis addresses the consistency of the proposed action with the relevant ACMP standards.

11 AAC 112.200: Coastal Development

The GP would authorize qualifying discharges into marine waters (saltwater) and into freshwaters. The activity is water-dependent.

11 AAC 112.210: Natural Hazard Areas

The draft GP is intended to cover the area of Alaska described above which means that future projects have the potential to be proposed in geophysical hazard areas. Under this GP, the discharge from the project would not be an issue but the construction of the project itself. It is likely that any individual proposal would need to be considered against this standard and evaluated on its own merit.

11 AAC 112.220: Coastal Access

The GP would not affect public access to coastal waters.

11 AAC 112.230: Energy Facilities

The draft GP authorizes wastewater discharges from several types of activities including construction of pipelines. Nothing in the GP grants access or the right to build in areas contrary to the local, state and federal laws applicable to the coverage area.

11 AAC 112.240: Utility Routes and Facilities

The draft GP authorizes wastewater discharges from several types of activities including construction of pipelines. Nothing in the GP grants access or the right to build in areas contrary to the local, state and federal laws applicable to the coverage area.

11 AAC 112.250: Timber Harvest and Processing

Not applicable.

11 AAC 112.260: Sand and Gravel Extraction

The GP authorizes discharges from gravel pits either to facilitate the mining of the gravels or to use the water for the construction of ice structures.

11 AAC 112.270: Subsistence, and

11 AAC 112.280: Transportation and Utilities

The draft GP authorizes wastewater discharges from several types of activities. Nothing in the GP grants access or the right to build in areas contrary to the local, state and federal laws applicable to the coverage area.

11 AAC 112.300: Habitats

POTENTIAL IMPACTS

The problems that are anticipated to arise should be remedied by instituting a BMP Plan attempting to foresee and plan to alleviate the potential impacts of the authorized discharge. The Fact Sheet and draft GP contain general situations which must be addressed in the BMP Plan while requiring that more site-specific issues be appropriately addressed.

GENERAL PERMIT PROVISIONS

Effluent Limitations. Permit Parts II.A. through II.F. contain effluent limitations restricting the discharge of pollutants. Please see the draft GP and the Fact Sheet for a full description of the effluent limitations for each type of discharge.

Best Management Practices. Permit Part II.G. includes the requirement for a BMP Plan in order to minimize adverse environmental effects from activities authorized by the GP. Permit Part II.D.3. requires that the BMP Plan requirements for storm water discharges be incorporated into the required Storm Water Pollution Prevention Plan (SWPPP).

OFFSHORE AREAS

The draft GP would authorize the discharge of the above described wastewaters to the marine environment. The discharges would mainly occur in the Arctic but with the expansion of the coverage area, there could be discharges to Cook Inlet and Prince William Sound. The GP contains proposed effluent limitations for each category of discharger and requires that a BMP Plan be developed, as described above.

ESTUARIES

It is expected that wastewater discharges in compliance with the effluent limitations of the draft GP would not affect estuaries because the intent of these limitations is to meet WQS to be protective of the uses of the waterbody. The BMP Plan would address erosion prevention in these areas so the discharges would not have an effect on the physical properties of estuaries.

TIDEFLATS

It is expected that wastewater discharges in compliance with the effluent limitations of the draft GP would not affect tideflats because the intent of these limitations is to meet WQS to be protective of the uses of the waterbody. The limits on the amount of solids in the discharge should

serve to prevent the discharge from having any effect on the regular flow patterns of the waterbody and the BMP Plan would address erosion prevention in these areas so the discharges would not have an effect on the physical properties of tideflats.

WETLANDS

Discharges of wastewaters into tundra wetlands are anticipated under this proposed GP. Wetlands in the expanded coverage area could also receive wastewater discharges. The discharges are required to meet the effluent limitations of the permit (no mixing zones have been authorized) and the discharge cannot cause thermokarsting or physical erosion. A BMP Plan is required by the GP.

ROCKY ISLANDS AND SEA CLIFFS

It is not expected that activities under the draft GP would occur in these areas. Activities which might harass wildlife would be dealt with under other federal/state/local laws and are not covered by the terms of this GP.

BARRIER ISLANDS AND LAGOONS

Discharges of wastewaters authorized by the draft GP may occur in the vicinity of the barrier islands or in lagoons but it is expected that most of this activity will take place during the Winter on ice. It is not expected that the melting of these discharges during Spring breakup would affect wave energy or currents in lagoons or near barrier islands. The BMP Plan requires erosion that could be caused by any discharge be prevented.

EXPOSED HIGH ENERGY COASTS

These areas may not be suitable locations for the activities under the draft GP. In the case that these areas are utilized, the impacts should be negligible because the effluent limitations applicable to the authorized discharges will minimize the amount of additional sediment that might affect the mix and transport of sediments, the redirection of transport processes and wave energy.

RIVERS, STREAMS, AND LAKES

Discharges of wastewaters authorized by the draft GP may occur in open waters. The discharges are required to meet the effluent limitations of the draft permit. A BMP Plan is required by the GP.

IMPORTANT HABITAT [designated under 11 AAC 114.250(h)]

It is expected that wastewater discharges in compliance with the effluent limitations of the draft GP would not affect these important habitats

because the intent of these limitations is to meet WQS to be protective of the designated uses of the waterbody. The BMP Plan would address erosion prevention in these areas so the discharges would not have an effect on the physical properties of these important habitats.

11 AAC 112.310. Air, Land, and Water Quality

AIR QUALITY STANDARDS

The draft GP would regulate discharges into waters of the United States. Under the NPDES program, EPA does not have jurisdiction over activities affecting air quality.

WATER QUALITY STANDARDS

Section 301 of the Clean Water Act (the Act) prohibits the discharge of pollutants to waters of the United States unless that discharge complies with technology-based effluent limitations or any more stringent limitation necessary to achieve state water quality standards. Section 402 of the Act authorizes EPA to issue NPDES permits with conditions necessary to ensure that a discharge complies with the requirements of the Act.

The draft GP includes effluent limitations, best management practices, and monitoring and reporting requirements to ensure that authorized discharges comply with the Alaska State Water Quality Standards (WQS).

Effluent Limitations. The proposed effluent limitations incorporate specific WQS for parameters applicable to each category of discharge. EPA has requested that the Alaska Department of Environmental Conservation (ADEC) certify the GP for compliance with WQS. If the certification contains requirements that are more restrictive than the draft GP, the final GP will be revised to include those provisions.

Best Management Practices. Permit Part II.G. includes a requirement to develop and implement a BMP Plan in order to ensure compliance with the WQS for the discharges authorized under the GP.

Monitoring and Reporting Requirements. The draft GP requires monitoring for compliance with the applicable effluent limitations found in the draft GP. Annual reports are required and in special circumstances, more frequent reporting is compulsory.

LAND QUALITY STANDARDS

The draft GP would regulate discharges into waters of the United States. Under the NPDES program, EPA does not have jurisdiction over upland activities which do not involve a discharge to the waters of the U.S.

11 AAC 112.320: Historical, Prehistoric, and Archeological Resources

It is unlikely that discharges authorized under this GP would affect historical, prehistoric, and archaeological resources. However, the site preparation associated with the construction of facilities may affect these resources. Therefore, the State would have an opportunity to identify these resources during the ACMP review for any permits required for construction activity.

F. CONSISTENCY DETERMINATION

15 CFR Part 930.36. Consistency Determinations for Proposed Activities

Based on the above analysis of the state and district Coastal Management Plans, EPA believes that the draft General NPDES Permit for facilities related to Oil and Gas Extraction is consistent to the maximum extent practicable with approved State management programs.

The EPA determines that the proposed activity complies with, and will be conducted in a manner consistent to the maximum extent practicable with, the Alaska Coastal Management Program, including affected coastal district programs.

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Date