

## Appendix B. Schedule to Transfer NPDES Program Authority

NPDES program authority will be transferred from the Environmental Protection Agency (EPA), Region 10 to the State of Alaska Department of Environmental Conservation (ADEC) in accordance with the following schedule.

ADEC Assumes NPDES Permitting and Enforcement Authority *	NPDES Program Component
<p><b>Phase I:</b> At the time of program approval from EPA</p>	<p>Domestic discharges</p> <ul style="list-style-type: none"> <li>• Individual and general permits</li> <li>• Major and minor facilities</li> </ul> <p>Timber</p> <ul style="list-style-type: none"> <li>• Individual permits for log storage and transfer</li> <li>• Log Transfer Facility General Permits                             <ul style="list-style-type: none"> <li>- Log storage and transfer</li> <li>- Stormwater discharges covered under the general permits</li> </ul> </li> </ul> <p>Seafood processing</p> <ul style="list-style-type: none"> <li>• Individual permits</li> <li>• General permits for processing facilities                             <ul style="list-style-type: none"> <li>- Seafood general processors</li> <li>- Kodiak</li> <li>- Pribilof</li> </ul> </li> <li>• Hatcheries</li> </ul>
<p><b>Phase II:</b> No later than one (1) year from program approval</p>	<p>Federal facilities</p> <p>Stormwater program</p> <ul style="list-style-type: none"> <li>• Construction General Permit</li> <li>• Multi-sector General Permit</li> <li>• Municipal Separate Storm Sewer Systems (MS4)</li> </ul> <p>Pretreatment program</p> <ul style="list-style-type: none"> <li>• Fairbanks</li> <li>• North Pole (Program approval pending)</li> </ul> <p>Miscellaneous non domestic discharges (e.g. utilities, ship and dry dock, and seawater treatment)</p>
<p><b>Phase III:</b> No later than two (2) years from program approval</p>	<p>Mining</p> <ul style="list-style-type: none"> <li>• Individual hard rock</li> <li>• General Permits                             <ul style="list-style-type: none"> <li>- Mechanical Placer (includes stormwater)</li> <li>- Medium-sized suction dredge</li> <li>- Small suction dredge placer</li> </ul> </li> </ul>
<p><b>Phase IV:</b> No later than three (3) years from program approval</p>	<p>Oil and gas</p> <ul style="list-style-type: none"> <li>• Individual permits                             <ul style="list-style-type: none"> <li>- Refineries</li> </ul> </li> <li>• General Permits                             <ul style="list-style-type: none"> <li>- Cook Inlet</li> <li>- Arctic (includes stormwater)</li> <li>- North Slope (includes stormwater)</li> </ul> </li> </ul> <p>All remaining facilities not previously covered, including cooling water intake/discharges and munitions.</p>

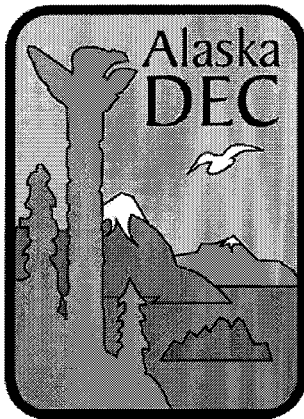
\* This permit transfer schedule may not apply to permits that:

- 1) EPA has substantially completed the permitting process or concluded a public review period, or
- 2) EPA has a pending or ongoing EPA enforcement action.

**National Pollutant Discharge Elimination  
System**

**Memorandum of Agreement**

**Between State of Alaska and  
United States Environmental Protection Agency  
Region 10**



**Final**  
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review of permits, reports, and enforcement actions submitted by the DEPARTMENT and may also consider comments from permittees, the public, and federal and local agencies concerning the DEPARTMENT's administration of the APDES Program. Any such comments to EPA will be brought to the attention of the DEPARTMENT by written correspondence if the person commenting has not previously communicated the comment to the DEPARTMENT.

8. Issue NPDES individual or general permits to facilities it retains jurisdiction over (Appendix A) that are consistent with the ACMP process under the federal Coastal Zone Management Act, when applicable.
9. Assist the DEPARTMENT with the development of standard pretreatment language to include in all applicable APDES permits, as well as model sewer use ordinances, to be used by non-delegated municipalities.
10. Input all required data into ICIS-NPDES for the facilities EPA retains permanent authority over and for facilities EPA retains authority over in accordance with the transfer schedule.
11. Retain authority for the biosolids program, which includes permitting, compliance, and enforcement. EPA will provide standard language to the DEPARTMENT for inclusion in APDES fact sheets that notifies permittees of their responsibility to comply with biosolids requirements with instructions to apply directly to EPA for a biosolids management and handling permit.

### **3.03 Jurisdiction Over Permits**

The DEPARTMENT retains the right to take enforcement action on an existing state-issued discharge permit or state certification of an EPA-issued NPDES permit prior to the DEPARTMENT's assuming APDES Program authority for the permitted facility in accordance with the transfer schedule in Appendix B.

Upon EPA's approval of the APDES Program and in accordance with the schedule in Appendix B, the DEPARTMENT will assume authority [subject to EPA's oversight and enforcement authority pursuant to the CWA §§402(d) and (i)] for permitting, compliance, and enforcement activities of the APDES Program, including administration of the Stormwater Program, Pretreatment Program, and federal facilities. A complete list of facilities issued an NPDES permit is found at Appendix C. A complete list of facilities issued a state permit is found at Appendix D. Appendix E lists each permitted facility according to when authority to administer the permit transfers to the DEPARTMENT. The DEPARTMENT and EPA will transmit and receive information regarding the APDES Program in accordance with 40 CFR §§123.41, 123.42, and 123.43.

1. Upon program approval, the DEPARTMENT shall:
  - a) Assume permitting, compliance, and enforcement authority for facilities in accordance with the transfer schedule in Appendix B of this AGREEMENT.
  - b) Receive and review discharge monitoring reports (DMRs) and conduct inspections for all permits pursuant to the transfer schedule in Appendix B.

- c) Retain the right to enforce state law at facilities with EPA-issued NPDES permits.
2. Upon program approval and in accordance with the transfer schedule in Appendix B, EPA shall:
- a) Retain permitting, compliance, and enforcement authority for facilities in Denali National Park and Preserve; facilities located in Indian Country; facilities operating outside state waters (three miles offshore); and facilities with the CWA §301(h) waivers. EPA shall suspend the issuance of NPDES permits for those activities subject to the approved APDES Program, except as provided in paragraph 10 of this Section. EPA shall retain authority over the biosolids management program.
  - b) Retain full jurisdiction for permits for which an appeal has been filed at the time of program authorization until that matter is resolved. Upon resolution of the administrative or judicial challenge and in accordance with the transfer schedule in Appendix B, EPA will notify the DEPARTMENT and the permittee that jurisdiction over the permit has been transferred to the DEPARTMENT. EPA will make every effort to resolve these issues in a timely manner, and if requested by either EPA or the DEPARTMENT, meet to discuss issues pertaining to NPDES permits retained by EPA. The DEPARTMENT shall retain its rights under the CWA §401 to consider state certification to subsequent EPA permitting actions on these retained NPDES permits.
  - c) Process appeals, modifications requests, and variance requests pertaining to permits issued by EPA and that EPA retains authority over. EPA will copy the DEPARTMENT on all correspondence and permitting decisions.
3. Upon program approval and notwithstanding the transfer schedule in Appendix B, EPA shall continue to work on specific permits identified in and negotiated via the Performance Partnership Agreement for the following circumstances:
- a) A permit where EPA has substantially completed the permitting process or concluded a public review period. Appendix F of this AGREEMENT lists EPA's permit issuance schedule and the permits that could be on public notice at the time of APDES Program approval. EPA will provide a final list to the DEPARTMENT of permits that EPA has substantially completed or that are on public notice at the time of program approval. Upon EPA's completion of the proposed final permit, the permit will be issued by the DEPARTMENT and authority over the permit, including compliance and enforcement, will be the responsibility of the DEPARTMENT. In certain cases, if mutually agreed to by EPA and the DEPARTMENT, the DEPARTMENT may prepare the proposed final permit from an EPA-drafted permit and issue the permit, which would otherwise be prepared by EPA.
  - b) Permits where EPA and the DEPARTMENT agree that, due to work load issues and resources, EPA may perform the work up to drafting a proposed final permit. Upon EPA's completion of the proposed final permit, the