

**Department of Environmental Conservation
Response to Comments**

For

**Clean Water Act Section 402 Modifications
Of Section 404 Permits For
Log Transfer Facilities in Alaska
Which Received a Section 404 Permit Prior To October 22, 1985
APDES General Permit No. AKG700000**

And

**Log Transfer Facilities in Alaska
APDES General Permit No. AKG700000**

Public Noticed December 7, 2014 – January 12, 2015

January 26, 2015



**Alaska Department of Environmental Conservation
Wastewater Discharge Authorization Program
555 Cordova Street
Anchorage, AK 99501**

1 Introduction

1.1 Summary of Facility / Permit

Log transfer facilities (LTFs) that received a Section 404 permit issued by the U.S. Army Corp. of Engineers prior to October 22, 1985, and never applied for, or received an Environmental Protection Agency (EPA) individual National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit are eligible for coverage under Permit Number AKG700000 (Pre-85 LTF General Permit).

New LTFs, and LTFs that previously received either an NPDES or Alaska Pollutant Discharge Elimination System (APDES) wastewater discharge permit are eligible for coverage under Permit Number AKG701000 (Post-85 LTF General Permit).

The LTF general permits authorize the discharge of bark and wood debris to marine waters of the U.S. within the State of Alaska within site-specific project areas at each LTF. The general permits areas of coverage include marine waters of the U.S. located in the State of Alaska extending west from the Alexander Archipelago through the central Gulf of Alaska and Prince William Sound to Kodiak Island. The LTF general permits propose to authorize discharges for each LTF within the area described in a Department of Natural Resources or other land management authority's tidelands permit, lease or easement.

The LTF general permits include a zone of deposit (ZOD) for underwater accumulation of bark and woody debris within designated area at LTFs.

1.2 Opportunities for Public Participation

The Alaska Department of Environmental Conservation (DEC or Department) proposed to issue two APDES wastewater discharge general permits for log transfer and storage facilities discharging in Alaska (i.e., the Pre-85 LTF General Permit and the Post-85 LTF General Permit). To ensure public, agency, and tribal notification and opportunities for participation, the Department:

- identified the permits on the annual Permit Issuance Plan posted online at: <http://www.dec.state.ak.us/water/wwdp/index.htm>
- notified potentially affected tribes that the Department would be working on these permits via letter, fax and/or email
- posted preliminary drafts of the permits on-line for a 10-day applicant review on October 31, 2014 and notified tribes and other agencies
- formally published public notice of the draft permits on December 7, 2014 in the Ketchikan Daily News and Juneau Empire and posted the public notice on the Department's public notice web page
- held public hearings on the draft permit in Ketchikan, Alaska on January 6, 2015 and in Juneau, Alaska on January 7, 2015

- posted the proposed final permits on-line for a 5-day applicant review
- sent email notifications via the APDES Program List Serve when the preliminary draft, draft, and proposed final permits were available for review

The Department received comments from seven interested parties on the draft permits and supporting documents. No verbal testimony was provided at the public hearings. The Department also requested comment from the Departments of Natural Resources (DNR) Fish and Game, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and EPA.

This document summarizes the comments submitted and the justification for any action taken or not taken by DEC in response to the comments.

1.3 Final Permit

The final permits were adopted by the Department on *[date]*. There were changes from the public noticed permits. Significant changes are identified in the response to comments and reflected in the final fact sheet for the permits.

2 General Support and Opposition for the Permit

2.1 Comment Summary

The Department received comments of general support to the permit.

Response:

DEC appreciates the comments of general support.

3 Comments on Project Area Zone of Deposits (ZOD)

3.1 Comment Summary

EPA commented that there does not appear to be a limit to the size of a project area ZOD despite the fact that the environmental effects of such a ZOD are not widely known.

Response:

DEC authorizes the deposition of bark and wood debris on the seafloor within the ZOD. The location and size of a ZOD (in acres) is established in the APDES permits by using the exact size authorized by a land use permit issued by DNR or other lead land management authority. The APDES permit simply authorizes a ZOD that mirrors the size authorization included in the land use permit. The direct use of the size authorized in the land use permit for sizing the ZOD makes for practical sense based on the anticipated operations footprint (i.e., where bark may actually be deposited on the marine seafloor). Note, the October 21, 1985 Log Transfer Facility Siting, Construction, Operation, and Monitoring / Reporting Guidelines (ATTF Guidelines) Siting Guideline S2 Protected Locations states “LTFs and log storage facilities should be sited in

weather-protected waters with bottoms suitable for anchoring and with at least 20 acres for temporary log storage and log booming.”

The 87 LTFs with a current administrative extension have on average a project area ZOD of 19.25 acres. This small percentage of area that may receive some degree of bark or wood waste accumulation is negligible compared to the literally millions of acres of tidelands and submerged lands that occur in Alaska. Note, all water quality standards (WQS) must be met at the boundary of any authorized ZOD to ensure water body as a whole protection.

3.2 Comment Summary

EPA requested that DEC describe the studies used to justify the 1.0-acre threshold for continuous bark and wood debris and allowing unlimited discontinuous coverage.

Response:

Consistent with 18 AAC 70.210 Zones of Deposits of the Alaska WQS, DEC adopted the 1.0-acre continuous bark cover threshold in its August 24, 1999 Clean Water Act (CWA) Section 401 certification of EPA’s 2000 LTF general permits (see page 9 of 102 of the draft fact sheet). DEC’s adoption of 1.0-acre threshold for continuous bark and wood debris without a limit for discontinuous coverage is largely based on the October 21, 1985 ATTF Guidelines imposing an interim intertidal and submarine threshold of 100% (continuous) coverage exceeding both 1.0-acre and a thickness greater than 10 centimeters (cm) (3.9 inches) at any point. Guideline C6 stated that permitting agency(ies) had discretion on requiring cleanup (now termed remediation) when the threshold was exceeded. The ATTF Guidelines did not impose a threshold for bark coverage less than 100% coverage.

The draft fact sheet recaps the development of the 1.0-acre threshold on page 9. The fixed 1.0-acre limit for continuous bark coverage and wood waste failed to acknowledge that discontinuous (10% to 99% cover) and trace cover (<10% cover) bark and wood waste are likely to be found within the operational footprint of a facility. DEC recognized that trace and discontinuous bark was likely to be discharged within the project area as log bundles were transferred to water, moved to log raft building areas, and while in log raft storage. In addition, natural dispersion of deposited bark & wood waste result in discontinuous and trace coverage. Bark found outside a fixed 1.0 acre ZOD would have been a violation of the residues water quality criteria and potentially subject to enforcement. By adopting a project area ZOD, DEC allowed for the presence of discontinuous and trace bark coverage through a variance (18 AAC 70.210) included in the WQS.

Further, no threshold for discontinuous or trace coverage is consistent with the goal of ATTF Siting Guideline 5, which says that LTFs should be sited along or adjacent to straits and channels or deep bays where currents may be strong enough to disperse sunken or floating wood debris.

The 1.0-acre threshold for continuous bark coverage within the project area ZOD included in the draft general permits was subject to an extensive multi-year state adjudicatory process following issuance of the 2000 EPA-issued LTF General Permits. The Hearing Officer concluded in the Analysis section of the Final Decision that “For all the debate over these permits, the area of serious factual dispute is relatively small. The testimony and evidence (if not the legal argument and posturing) from all parties is in substantial agreement about a number of central facts: (1) within the interstitial waters of bark piles, the combination of leaching and decomposition can create anoxic conditions and levels of certain chemicals (sulfides and phenols, if not ammonia) that are toxic to some forms of aquatic life; (2) the water column outside of a properly sited LTF bark pile footprint does not achieve elevated levels of those chemicals and is not anoxic; (3) bark piles tend to be substantially continuous or substantially discontinuous, with relatively clear areas of demarcation; (4) continuous bark piles of a depth of a more than a few (less than 10) centimeters in an area of soft bottom will cause the loss by smothering, starvation or displacement of all or portions of an existing suspension filter feeding benthic community (clams, etc.), if any is present, and its replacement by a deposit feeder community (starfish, etc.) and (5) LTF activities in conformity with the General Permits will interfere with recreational uses and the harvesting of aquatic resources within the project area. Taken as a whole, the evidence and testimony clearly support DEC's basic finding: that the only significant impact of bark and wood debris on the benthic environment is the burial of organisms on the marine bottom, and that toxicity will not occur outside of the bark and wood debris pile.” The 2000 LTF General Permits were also subject to an appeal to the 9th Circuit Court.

The Department's ZOD regulation at 18 AAC 70.210 authorizes the Department to authorize and establish limits for a ZOD. The Department has elected to retain the 1.0-acre threshold for continuous cover bark from the ATTF Guidelines and establish no limit or threshold for discontinuous or trace bark as the intention is that natural processes will disperse the log deposits over time.

3.3 Comment Summary

EPA requested that DEC describe how a general project area ZOD for each facility conforms to the ZOD regulation at 18 AAC 70.210(b), which requires DEC to evaluate specific factors before authorizing a ZOD. .

Response:

The 2002 Final Decision of the adjudication required that DEC develop a Decision Document as part of the ZOD authorization process. This document evaluated each separate Notice of Intent or Notification for compliance with DEC's Antidegradation Policy (18 AAC 70.015) and ZOD regulations. 18 AAC 70.015(a)(2) allows the Department to issue a ZOD to LTFs if applicants provides the required information that allows the Department to find the discharge consistent with these requirements. The 2004 modified LTF general permits required DEC to issue a ZOD authorization prior to EPA issuing a discharge authorization under the general permits.

DEC public noticed its intent to re-issue authorization under the effective general permits to facilities with an administratively extended authorization under the 2008 general permits without additional review once the application is deemed technically complete (draft fact sheet, page 58) given public notice of these existing site-specific ZODs have already occurred.

3.4 Comment Summary

EPA is concerned that DEC is only limiting continuous cover. The smallest difference between continuous and discontinuous is 100% versus 99% and is a subjective measurement. As shown in Table 4 of the draft fact sheet, the Klawock Island Dock LTF reported (in 2010) 0-acre of continuous bark and 3.95 acres of discontinuous coverage. Other examples include Hydaburg, which has 0-acre continuous cover and 2.47 acres discontinuous cover and Tolstoi Bay LTF/LSA, which have 1.42 acres continuous cover and 9.20 acres discontinuous cover. EPA encourages DEC to consider some threshold or additional monitoring for discontinuous coverage to evaluate its impacts to the benthic environment.

Response:

The 1.0-acre threshold for continuous cover bark was established through an agency / public process that resulted in the October 21, 1985 ATTF Guidelines (see Part C6 of Appendix B of the fact sheet). Bark Accumulation stated that:

“An interim guideline for threshold bark accumulation levels and cleanup when exceeding those levels is being used due to a lack of information. Technical data is needed to evaluate technical feasibility of various options for managing accumulations, such as removal or other control procedures. Water quality and biological information is needed to evaluate effects on water quality and biota from removal and disposal of bark accumulations and effects of other corrective options that may be used to manage bark accumulations.

The USDA Forest Service and the U.S. Fish and Wildlife Service have entered into a cooperative agreement to assess the practicability of bark removal. This study is planned for 1986 to evaluate bark removal at one site and the level of that will result in bark accumulation occurring.

Completion of these scheduled plus design of additional studies to answer questions for threshold accumulation levels and bark removal will provide information to develop final guidelines for these issues. The interim guidelines will remain in effect pending completion of these studies. Final completion of the recolonization studies will not occur until FY 89-90. These will, however, be interim reports for these studies dealing with cost effectiveness of suction dredging removal techniques, release of toxics into the water during bark removal and preliminary recolonization of evaluations. These interim reports will provide sufficient information to develop a final guideline by the fall of 1987.”

No follow-up studies were ever completed as far as DEC knows so the 1.0 acre threshold has remained the permitting standard.

The draft permits for the first time, contain requirements to map various classes of discontinuous bark cover (99% to 50% discontinuous cover and 49% to 10% discontinuous cover) to the extent practicable as an information gathering requirement. There is very limited information on bark and wood debris dispersal behavior in the marine environment. The mapping requirement is intended to determine, if possible, if discontinuous bark cover has consistent and predictable dispersal patterns. Given the lack knowledge, DEC maintains it premature to consider establishing a threshold for discontinuous bark and/or wood waste coverage.

The annual bark monitoring and reporting requirements included in the draft and proposed final LTF general permits do not require the collection of biological data as the permit cycle is being used to assess the ability to map discontinuous bark coverage. Pending the results of this new monitoring requirement, the Department will determine if additional benthic requirements are necessary in future permit iterations.

3.5 Comment Summary

EPA commented that the proposed permits do not appear to provide a public comment mechanism for DEC to public notice the ZOD and anti-degradation analysis for new LTFs. Please explain how this process will occur.

Response:

The Hearing Officer Final Decision in the adjudication of August 24, 1999 CWA Section 401 certification of the EPA 2000 LTF general permits required that DEC provide a public comment period for new facilities. DEC has administrative procedures to provide the public an opportunity to comment and provide information on existing uses of the waterbody. See page 10 of the fact sheet, Part 1.2.1.1, first paragraph.

4 Comments on Bark Monitoring and Reporting Requirements

4.1 Comment Summary

EPA commented that it is unclear if bark monitoring surveys are required to include the entire project area ZOD. EPA suggests clarifying that bark monitoring surveys are required to be conducted to at least the boundary of the project area ZOD, or beyond, if continuous and discontinuous coverage is found.

Response:

DEC disagrees that the draft permit language on the extent of bark monitoring surveys is unclear. The permits retain the dive survey requirements from the EPA-adopted 2008 General Permits. These requirements mandate that where continuous cover bark is found on the seafloor, the survey continue to the end of continuous cover, or to -100 feet at Mean Lower Low Water (MLLW), whatever occurs first. For discontinuous cover bark, the survey must continue to -60

feet at MLLW, or the end of discontinuous, whichever occurs first. No changes were made based on this comment.

4.2 Comment Summary

EPA requested that for legacy/historical facilities that are inactive and have been for over a decade, DEC explain expectations with regard to monitoring these ZODs and explain how DEC may determine if remediation is necessary.

Response:

The 2000 LTF general permits, 2004 modifications, and 2008 EPA-issued LTF general permits required that permittees that submitted a NOI (AKG701000) or Notification (AKG700000) notifying the agencies of the intent to transfer more than 15 million board feet (mmbf) over the life of the permit must complete a bark monitoring survey for any year in which volume was transferred to water. The 2015 LTF permits contain the same requirements. Until such time that transfer activities resume at these currently inactive LTFs, no additional monitoring is required.

DEC is unsure what is meant regarding potential remediation as none of these permitted facilities have previously reported an exceedence of the 1.0-acre threshold, which triggers the remediation planning requirements found in the LTF general permits.

4.3 Comment Summary

EPA suggests requiring bark monitoring survey protocol and reports to calculate the bark depth to one-tenth (0.0) inch in order to evaluate compliance with the depth threshold in the Permit (3.9 inches). For example, in two dive surveys (i.e., Tolstoi Bay LTF and Tonka LTF), the bark depth in inches is provided in whole numbers; therefore, it is not known whether "3" inches is less than or greater than the threshold of 3.9 inches.

The abundance tables provided in the above-mentioned dive surveys offer little context for the site-specific benthic environment. To determine the actual effect of a ZOD on the benthic community, EPA suggests adding a benthic community component to the bark monitoring survey protocol.

Response:

The preliminary draft LTF APDES general permits included the requirement to measure bark depth to the nearest one centimeter. DEC received comments from Sealaska Timber Corporation (STC) following the completion of the 10-day applicant review. STC commented that it is not feasible to measure bark down to the one-centimeter interval based upon their contract diver's input and that "thickness" should replace "depth". DEC evaluated these comments and agreed to make the changes based upon the diver's expertise in measuring precision and agreeing the thickness is a better description of bark deposits on the seafloor.

The APDES general permits require that bark thickness be measured and recorded to the nearest whole inch (whole numbers). DEC has added language to these sections in the respective LTF general permits to address rounding of thickness measurements to add confidence that 3 inches is less than the 3.9 inch threshold.

The annual bark monitoring and reporting requirements in the APDES LTF general permits do not require the collection of biological data. These requirements are intended to determine if the continuous cover bark exceeds the remediation threshold, not complete a benthic assessment. DEC is retaining the language in the final LTF general permits.

4.4 Comment Summary

EPA commented on Part 5.3.2 of AKG70000 and Part 6.3.4.e of AKG701000 by requesting that DEC describe the rationale for requiring bark monitoring of discontinuous coverage to -60' MLLW and continuous coverage to -100' MLLW. EPA suggests making the depth requirement the same for both discontinuous and continuous coverage to -100' MLLW unless a compelling reason is provided for only evaluating discontinuous coverage to -60' MLLW.

Response:

DEC is unsure if this comment is directed at the draft fact sheet or permit since the basis of permit requirements are explained in the fact sheet, not the permit.

This particular language has been included in the LTF general permits since the 2004 modifications were adopted. The rationale is that there is no limit or threshold on discontinuous cover bark and wood debris in the LTF general permits, nor does DEC propose to establish a threshold for other than continuous cover bark in this permit cycle.

4.5 Comment Summary

EPA commented that Part 5.3.4 of AKG70000 and Part 6.3.4 of AKG701000 allow for permittees to apply for a waiver to conduct bark monitoring by methods different from what is provided in the permits. EPA recommends omitting the ability for facilities to request waivers from completing the bark monitoring methods as listed in the permit. The bark monitoring methods provided are fairly standard and provide a level of consistency among the surveys. If DEC retains this provision, please describe DEC internal procedures for tracking the requests and issuance of the waivers and describe the public notice process for approving methods different from what is required in the permits.

Response:

DEC is unaware of CWA requirements or NPDES/APDES regulations preventing permittees from requesting a waiver from generalized dive survey requirements, or any requirement for a public process in evaluating this type of waiver requests.

EPA's 2008 general permit AKG701000 stated that "An equivalent method may be acceptable if it meets the purpose stated in Part V.C.2 above." DEC included additional language in the APDES general permits specifying the process permittees must complete in order for DEC to approve the use of an alternate method. This provision will be retained in the issued permits along with some additional language. DEC will include additional language to these sections so they state "Operators may request a waiver from the approved method and request approval of an alternate method, by submitting a detailed description of the circumstances requiring the waiver and alternate method." DEC will include this language in Part 6.3.4 of permit AKG701000 so the permit requirements are consistent.

4.6 Comment Summary

EPA commented that Part 5.3.5.j of AKG70000 and Part 6.3.5.j of AKG701000 requires operators to submit the bark monitoring survey report within 60 days of receipt of the survey by the operator "unless a longer time is authorized by DEC." EPA suggests omitting this extension language since it creates compliance tracking and enforcement challenges.

Response:

DEC has deleted "unless a longer time is authorized by DEC" from the final permits based on the reasoning contained in the comment.

4.7 Comment Summary

EPA commented that Part 5.3.5.j/6.3.5.j (AKG700000 and AKG701000 respectively) requires permittees to submit the results of the bark monitoring survey in electronic format. However, Part 5.3.8/6.3.8 requires annual bark monitoring survey reports to be submitted to DEC at the address listed in Appendix A Part 1.12 and to submit a written statement to DEC indicating that the surveys were mailed to DEC within 60 days of receipt. Please clarify the format DEC requires for the bark monitoring reports and revise the reference for DEC's address to be Appendix A, Part 1.1.2 [emphasis added].

In addition, in AKG701000, Part 6.3.8 requires annual bark monitoring survey reports to be submitted to DEC at the address listed in Appendix A 1.1.2 and the Department of Natural Resources (DNR) at the address specified. The address for DNR is not included in Part 6.3.8 of the Permit.

Response:

DEC agrees that section 5.3.5.j. and 6.3.5.j. contain a mixture of required content in bark monitoring reports that should be retained in Part 5.3.5 and Part 6.3.5, respectively, as well as submittal of report requirements that should have been included in Parts 5.3.8 and 6.3.8, respectively. DEC will add the language from the second sentence of Part 5.3.5.j and Part 6.3.5.j respectively to 5.3.5.h / 6.3.5.h so that these sections state "The results of a survey must clearly state the area of continuous (100%) bark coverage, to the extent practicable, area of 99% to

50% discontinuous cover, and area of 49% to 10% discontinuous cover, in acres to one tenth of an acre.

DEC will add the first sentence from Part 5.3.5.j and 6.3.5.j to Part 8. Submittal of Report so that these sections state “The Bark Monitoring Report must be submitted to DEC in electronic format (portable document file (pdf) preferable) within 60 days of receipt of the survey by the operator, at the address found in Appendix A Part 1.12.”

The requirement to provide DNR a copy of the survey report in permit AKG701000 has been deleted as DNR informed DEC prior to the preliminary draft that this is no longer an agency requirement and DEC neglected to make this change in draft permit AKG701000.

4.8 Comment Summary

EPA commented that the content of paragraph Part 5.3.4.g.v of permit AKG700000 and Part 6.3.4.g.v of permit AKG701000 contain duplicative language in the Subparts. The same issue is found in Part 5.3.4.g.ii of AKG700000 and Part 6.3.4.g.ii of AKG701000. The same applies to Part 5.3.5.h/6.3.5.h and Part 5.3.5.g/6.3.5.g of permit AKG700000 and AKG701000 respectively.

Response:

DEC agrees this language was duplicative and has deleted this language.

4.9 Comment Summary

EPA commented that Part 5.3.5.i/6.3.5.i is duplicative of Part 5.3.4.g.ii/6.3.4.g.ii in permits AKG700000 and AKG701000 respectively.

Response:

While these sections appear to be duplicative, DEC maintains both provisions are necessary. Part 5.3.4.g.ii/6.3.4.g.ii details information that must be recorded / collected while conducting the in-water survey. Part 5.3.5.i/6.3.5.i details what information that was recorded / collected while conducting the in-water survey must be included in the bark survey reports. No changes will be made in response to this comment.

4.10 Comment Summary

The Alaska Forest Association (AFA), STC, and the Alaska Mental Health Trust Land Office (MHTLO) all recommend that DEC delete the requirement to map discontinuous cover bark into two classes; the 99% to 50% cover class, and the 49% to 10% cover class. AFA commented that previous DEC benthic studies and biological assessments at LTFs and LSAs have demonstrated that assumed impacts from bark deposits on the seafloor have had less actual impacts and that significantly impacted areas have naturally remediated themselves in a very short time. AFA and STC believes that this requirement will lead to regulatory creep as DEC has no evidentiary basis,

much less a reasonable one for starting down the path of discontinuous bark remediation. The MHTLO supports STC's comments on this issue.

STC also commented that there are practical problems inherent in trying to map discontinuous core bark into two classes.

Response:

DEC agrees that there is no published information on the effects of discontinuous cover bark on the benthos. There is limited information available on the effects of wood waste, not bark (1984 Kathman and the 1985 McGreer reports) indicating that some adverse changes begin at approximately 50% by volume in sediments. Given the dearth of published information, DEC has elected to include a requirement to map discontinuous cover into the two classes to determine if there is a consistent areal relationship between continuous cover (100%) and discontinuous cover bark. DEC will retain this requirement in the two general permits.

4.11 Comment Summary

STC also provided a number of comments on technical bark monitoring issues. They include:

1. Permanent shore markers should not be required.
2. For radial transects, five transects are not always possible with 30° of separation.
3. Sampling stations should meet minimum resolution requirements, not strictly the 15 foot spacing required in both permits.

Response:

1. DEC did delete this requirement because of GPS technology that allows location re-establishment within required accuracy.
2. DEC agrees and added language stating transects should be no more than 30° apart in both general permits.
3. The permits will retain the 15 foot spacing requirement but now provide a mechanism to request a waiver.

5 Comments on Notice of Intent (NOI) and Notification Requirements

5.1 Comment Summary

EPA commented that for permit AKG700000, Part 4.2.1 states that written Notification must be submitted within 90 days of the effective date of the Permit (for facilities who are not administratively extended); Part 4.2.2 states that these same facilities must submit a Notification at least 60 days prior to anticipated commencement of in-water storage or transfer activities. These deadlines are inconsistent.

Response:

DEC has changed the second paragraph of Part 4.2.2 to 90 days for consistency. DEC will likewise add this language to Parts 5.1 and 5.2 of permit AKG701000 for permit consistency.

5.2 Comment Summary

EPA commented that both general permits require facilities to submit a nautical chart with the Notification/NOI. The permits require the facility to delineate the project area ZOD boundary and project area acreage. However, for new facilities, DEC must authorize the project area ZOD and thus the new applicant would not have this information to submit with the Notification/NOI. EPA suggests revising this Part clarifying the required submittals for new facilities.

Response:

Applicants would have this information because the size and location of a ZOD is established in a land use permit issued by DNR or another land management authority (see response 3.1). Maps showing the lease area which is the same as the project area ZOD are available from DNR. DEC expects that other land management authorities have the capability to issue similar maps and the boundaries could be transferred to the nautical chart. No change is required in the permit language to address this comment.

5.3 Comment Summary

EPA commented that both general permits requires new facilities to submit a pre-discharge survey to water depths of -60' MLLW. However, bark monitoring surveys are required to -100' MLLW. EPA suggests requiring a pre-discharge survey to -100' MLLW to be consistent with the required depth of the bark monitoring survey.

Response:

The -60 foot depth was carried forward from the 2008 LTF general permits and is retained in the APDES general permits. For applicants seeking a first time discharge under permit AKG70000, no discharges have occurred since at least 2000 and DEC expects that any continuous cover bark that has not naturally remediated will be found immediately adjacent to the transfer point based on bark dives completed for CWA Section 303(d) de-listing of other legacy facilities.

5.4 Comment Summary

EPA suggests adding the nautical chart requirement from the general permits to Appendix 1 (NOI or Notification) as a required attachment.

Response:

DEC has added this as a required attachment to the Notification / NOI forms.

5.5 Comment Summary

For both AKG70000 and AKG701000, EPA is concerned that LTF operators may not seek coverage under the MSGP to authorize contaminated storm water discharges. EPA suggests DEC incorporate information requirements in the NOI and Notification to ensure information

pertaining to the potential to discharge storm water is known before coverage under these permits is granted.

Response:

Part 1.17 of Appendix A of the LTF general permits reminds permittees of their obligation to obtain all other required permits / authorizations prior to discharging bark and wood debris. DEC's draft fact sheet reminds permittees and potential applicants of the responsibility to obtain MSGP coverage. No changes to the permits were made based on this comment.

5.6 Comment Summary

MHTLO requested that DEC clarify that currently permitted LTFs (AKG701000) do not have to re-apply for coverage (See Part 1.2.2).

Response:

DEC will retain the current language in the permit since these existing LTFs had previously applied prior to the expiration date of the 2008 permits. Permittees maybe requested to **supplement** the existing NOI with additional materials, not submit a new NOI.

5.7 Comment Summary

MHTLO commented that DEC review the requirement to conduct dive surveys in waters deeper than -60 feet in depth due to safety issues and the lack of evidence that there are specific detrimental impacts due to bark deposits.

Response:

EPA modified the dive survey requirements to survey continuous cover bark to -100 feet at Mean Lower Low Water (MLLW) in the 2004 permit modifications. DEC lacks sufficient data to support changing the -100 feet requirement. No changes were made based on this comment.

5.8 Comment Summary

MHTLO commented that annual use of its LTFs are in the range of 5 to 10 mmbf annually and that LTFs that do not discharge more than 10 million board feet (mmbf) on an annual basis should only be required to conduct biannual dive surveys.

Response:

The general permits only require that permittees that notify DEC of plans to transfer more than 15 mmbf over the five year life of the permits to conduct bark dive surveys for any year in which logs were transferred to water. This comment is a request for a reduction in the frequency of dive surveys from once per year to once every other years for LTFs transferring less than 10 mmbf annually. DEC is unable to change the monitoring frequency in the general permits without a rigorous review of all monitoring data received by DEC to date and the completion of

a statistical analysis that may, or may not justify such a reduction. DEC lacks the time and resources to complete such a study at this time, and expects applicants to provide the study and/or data supporting such a request.

6 Comments on the Pollution Prevention Plan (PPP) Requirements and Best Management Practices (BMP) Plans

6.1 Comment Summary

EPA commented on Part 7.9 of AKG70000 and Part 8.2.10 of AKG701000 - "All changes in the PPP must be reviewed by the facility manager." EPA suggests adding "and appropriate staff" to be consistent with Part 7.8 of AKG70000 and Part 8.2.9 of AKG701000.

Response:

This language was carried forward from the EPA-issued 2008 LTF general permits, but DEC agrees with the comment and has made these changes for consistency.

6.2 Comment Summary

EPA commented that permit AKG701000 (Parts 4.4 and 8.1) states that a PPP is not required for offshore permittees. Part 8.2.5 explains the purpose of a PPP is to identify and employ all reasonable practices to avoid the discharge of bark, wood debris and other pollutants to waters of the U.S. and contain the discharge to the smallest area that is practicable and is consistent with safe and orderly operation of the log transfer facility. It seems prudent for offshore LTFs to develop and implement a PPP in order to prevent and minimize the potential for the release of pollutants to waters of the State of Alaska.

Response:

The general permits contains BMPs that are applicable to offshore LTFs. With the rare exception of helicopter water drops where logs are removed from water onto a barge using heavy equipment, pollutants other the bark and wood debris are not generated at these sites. Logs bundles are stored in log rafts within boomsticks, and other than continuing to rub against each other and potentially discharging bark and wood debris, no other pollutants are generated. The PPP requirement is primarily focused on other pollutants not addressed through existing BMPs. No changes were made based on this comment. Comment Summary

EPA noted that Part 10.2 of the fact sheet explains that permittees are required to develop and implement a BMP Plan. However, the Draft Permits require permittees to develop and implement a PPP, which includes BMPs. The Draft Permits do not require a BMP Plan. Table 1 in draft permit AKG70000 has an error. The submittal required in Part 4.3.8 of the Permit is for a best management practices (BMP) implementation statement [emphasis added] and not a BMP

plan, as identified in Table I. Barry Hogarty commented that Table 1 in draft permit AKG701000 does not include information on BMP requirements.

Response:

DEC will modify the language in this section to state “implement BMPs” rather than “develop a BMP Plan”. DEC will add the words “implementation statement” to this section of Table 1 to make this requirement clear. DEC will likewise add this to Table 1 in permit AKG701000.

7 Comments on the Remediation Plan Requirements in Both General Permits

7.1 Comment Summary

EPA suggested that DEC change Part 6.1 of AKG70000 and Part 7.1 of AKG701000 by omitting "unless additional time is granted by DEC" for submittal of the Remediation Plans. Allowing extensions creates challenges for tracking compliance and enforcement of permit submittals.

Response:

This language was taken from DEC’s October 10, 2008 CWA Section 401 certification of EPA’s 2008 LTF general permits and will be retained in the reissued permits to allow for consideration of site-specific issues requiring additional time.

8 Miscellaneous Permit Comments

8.1 Comment Summary

EPA questioned whether . if DEC issued an operator an alternative APDES permit (see Part 1.2 second paragraph), in which DEC authorized a ZOD, would the operator remain active under this Permit?

Response:

Without a general permit ZOD authorization, applicants cannot legally discharge bark and wood debris under the general permit so operators could not remain active under the general permit.

8.2 Comment Summary

EPA commented that DEC requires the permittee to include the practices that will be used to minimize additional bark accumulation if continuous coverage exceeds both 1.0-acre and 10

centimeters. EPA suggests requiring the permittee to include the date of the most recent bark monitoring survey and the size of the accumulation on the annual report.

Response:

Permittees are already required to inform DEC on the dive report if continuous cover bark exceeds the 1.0-acre threshold. DEC has determined the request to be duplicative of other permit conditions. No changes will be made based on this comment.

8.3 Comment Summary

EPA suggests adding definitions for a CWA Part 305(b) report and Category 4b waterbody in Appendix C, as these terms are used in the Permit and may be unfamiliar to readers.

Response:

DEC added these terms to the definitions found in Appendix C.

8.4 Comment Summary

The United States Department of the Interior National Park Service (NPS) requested that permit AKG701000 be modified to require applicants for areas adjacent to units of the NPS, National Historic Landmarks and National Natural Landmarks to consult with the NPS prior to filing a NOI.

Response:

The commenter failed to identify a clear legal authority for DEC to impose the recommended permit condition. No changes were made based on this comment.

9 Comments on the Draft Fact Sheet

9.1 Comment Summary

EPA commented that Part 5.2 of the fact sheet mentions that the Tolstoi Bay LTF has more than 1.0 acre continuous bark coverage and DEC that has agreed to wait until after the bark surveys for the 2014 operating season to determine whether a Remediation Plan will be required. According to Table 4, the facility has a 1.42 acres continuous cover and 9.20 acres of discontinuous cover. The permit requires Remediation Plans to be submitted within 120 days from the time the facility becomes aware of continuous cover exceeding 1.0 acre and 10 cm in depth.

EPA is concerned about DEC allowing prolonged extensions to permit deadlines. For enforceability and tracking purposes, EPA recommends keeping the timeframe for submitting a Remediation Plan to 120 days with no opportunity to obtain an extension.

Response:

This language was taken from DEC's October 10, 2008 CWA Section 401 certification of EPA's 2008 LTF general permits and will be retained in the final permits to allow for consideration of site-specific issues requiring additional time.

9.2 Comment Summary

EPA asked DEC to describe the basis used to support the conclusion that "ecologically significant effects from the discharge and accumulation of bark and wood debris at LTFs are not likely to occur outside the project area ZOD." See Part 9.0.3.

Response:

The source of this statement is the Ocean Discharge Criteria Evaluation.

9.3 Comment Summary

Barry Hogarty commented that Table 1 list the U.S. Forest Service as the permittee for the Sandy Point LTF (AKH701001) when in fact this LTF is owned by STC.

Response:

DEC agrees that this is an error and made the changes to Table 1.

9.4 Comment Summary

Barry Hogarty commented that Table 1 lists Huna Totem Corporation and Haida Corporation as the permittee for East Port Frederick LTF (AKG700004) and Saltery Point LTF (AKG700006) respectively, when STC provided the Notifications for these LTFs.

Response:

Table 1 shows the owner as the permittee, not the operator so this listing is correct. STC has previously provided permit application support to village corporations within the Sealaska Corporation's regional corporation boundaries. No changes were made based on this comment