



ALASKA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Permit Fact Sheet – Final

Permit Number: **AKG003000** – General Permit for
Hydrostatic and Aquifer Pump Testing

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Wastewater Discharge Authorization Program
555 Cordova Street
Anchorage, AK 99501

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Proposed issuance of an Alaska Pollutant Discharge Elimination System (APDES) general permit for:

HYDROSTATIC TEST WATERS AND AQUIFER PUMP TESTING

The Alaska Department of Environmental Conservation (the Department or DEC) proposes to issue an APDES general permit (permit) for hydrostatic test water including flushing, and aquifer pump testing (in support of mineral mining and development). The permit authorizes and sets conditions on the discharge of pollutants from authorized hydrostatic testing of tanks, pipelines, and similar containers including water line flushing as well as aquifer pump testing discharges in support of mineral mining development and exploration to waters of the United States (U.S.) or waters of the State or land. To ensure protection of water quality and human health, the permit places limits on the types and amounts of pollutants that can be discharged from the authorized hydrostatic and aquifer pump testing and outlines Best Management Practices (BMPs) to which they must adhere.

This fact sheet explains the nature of potential discharges from hydrostatic test waters and the development of the permit including:

- information on public comment, public hearing, and appeal procedures,
- a description of the industry,
- a listing of effluent limitations, monitoring, and other conditions, and
- technical material supporting the conditions in the permit

Public Comment

A final permit will become effective 30 days after the Department’s decision, in accordance with the state’s appeals process at 18 Alaska Administrative Code (AAC) 15.185.

The Department will transmit the final permit, fact sheet (amended as appropriate), and the Response to Comments to anyone who provided comments during the public comment period or who requested to be notified of the Department’s final decision.

Informal Reviews and Adjudicatory Hearings

A person authorized under a provision of 18 AAC 15 may request an informal review of a contested decision by the Division Director in accordance with 18 AAC 15.185 and/or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. See DEC’s “Appeal a DEC Decision” web page <https://dec.alaska.gov/commish/review-guidance/> for access to the required forms and guidance on the appeal process. Please provide a courtesy copy of the adjudicatory hearing request in an electronic format to the parties required to be served under 18 AAC 15.200. Requests must be submitted no later than the deadline specified in 18 AAC 15.

Documents are Available

The permit, fact sheet, and related documents can be obtained by visiting or contacting DEC between 8:00 a.m. and 4:30 p.m. Monday through Friday at the addresses below. The permit, fact sheet, and other information are located on the Department’s Wastewater Discharge Authorization Program website:

<https://dec.alaska.gov/water/wastewater/>.

Alaska Department of Environmental Conservation Division of Water Wastewater Discharge Authorization Program 555 Cordova Street Anchorage, AK 99501 (907) 269-6285	Alaska Department of Environmental Conservation Division of Water Wastewater Discharge Authorization Program 610 University Avenue Fairbanks, AK 99709 (907) 451-2136
Alaska Department of Environmental Conservation Division of Water Wastewater Discharge Authorization Program <u>Mailing Address:</u> P.O. Box 111800 Juneau, Alaska 99811 <u>Location:</u> 410 Willoughby Avenue, Juneau (907) 465-5180	

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1.0 INTRODUCTION

The Alaska Department of Environmental Conservation (DEC or Department), Division of Water, Wastewater Discharge Authorization Program (WDAP) is reissuing AKG003000 - Hydrostatic and Aquifer Pump Testing General Permit, which represents the third reissuance of the permit by DEC.

1.1 Basis for Permit Per Alaska Statutes (AS), Chapter 46, Title 3, Section 100(a) (AS 46.03.100(a)), a person may not construct, modify, or operate a treatment works or dispose of liquid waste into the waters or onto the land of the State without prior authorization from the Department. Per AS 46.03.100(d), the Commissioner may provide, as a term of a general permit, that a person intending to dispose (or discharge) wastewater under the general permit shall first obtain specific authorization from the Department. The following section discusses the regulatory basis for developing the Permit and covers both the discharge of wastewater to Waters of the U.S. and state waters and disposal of wastewater into or onto land.

1.1.1 Wastewater Discharges to Waters of the United States (WOTUS) in Alaska. Section 301(a) of the Clean Water Act (CWA) and Title 18 of the Alaska Administrative Code (AAC), Chapter 83, Section 15 (18 AAC 83.015) provide that the discharge of pollutants to WOTUS in Alaska is unlawful except in accordance with an Alaska Pollutant Discharge Elimination System (APDES) permit. Often the discharge of pollutants is regulated through an APDES individual permit. However, 18 AAC 83.205 authorizes the issuance of a general APDES permit to categories of discharges when a number of point sources are:

- Located within the same geographic area and warrant similar pollution control measures;
- Involve the same or substantially similar types of operations;
- Discharge the same types of wastes;
- Require the same effluent limitations or operating conditions;
- Require the same or similar monitoring requirements; and
- In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

Per 18 AAC 83.210(a), a general permit is to be administered according to the individual permit regulations in 18 AAC 83.115 and 18 AAC 83.120. Like an individual permit, a violation of a condition contained in a general permit constitutes a violation of the CWA and the permittee is accordingly subject to the penalties specified in Section 309 of the CWA. In accordance with 18 AAC 83.155, the Permit has a term of five years and those authorizations under the general permit can remain in force and effect via administrative extension should the Department be unable to reissue the permit to its expiration date.

1.1.2 Wastewater Discharges into State Waters WDAP authorizes discharges of domestic or non-domestic wastewater into state waters under the regulatory authority of 18 AAC 72 – Wastewater Disposal. Determining which waters are state waters is not straightforward because the new definition of WOTUS is still without clear guidance of how the WOTUS determination will be made in certain circumstances. Previously, nearly all waters and wetlands were perceived as WOTUS. However, in the recent Superior Court decision in the case of *Sackett v. EPA*, the court held that the CWA's use of "waters" in 33 USC 1362(7) refers only to "geographic[al] features that are described in ordinary parlance as 'streams, oceans, rivers, and lakes' and to adjacent wetlands that are 'indistinguishable' from those bodies of water due to a continuous surface connection."

This recent decision means many waters and wetlands that were previously categorized as WOTUS are, at this time, now state waters. While the determination procedures remain in flux, the level of

environmental protection remains the same regardless of whether waters are categorized as WOTUS or state waters. In other words, 18 AAC 70 – Water Quality Standards (WQS) applies to both designations and the resulting permit limits and conditions remain the same for either. The primary implication lies in the reporting of monitoring results. Reporting to the EPA is required for discharges to WOTUS while discharges to waters of the state are reported only to the State. Hence, the designation of receiving water only affects the method of reporting in this general permit.

1.1.3 Wastewater Disposal into or onto Lands in Alaska WDAP also authorizes disposal of domestic or non-domestic wastewater into or onto lands of the State under the regulatory authority of 18 AAC 72 – Wastewater Disposal. For land disposal to upland areas, it is incumbent upon the applicant to demonstrate that the disposal area is neither WOTUS nor state waters. More importantly, DEC intends to restrict land disposal to those locations where infiltration into groundwater is the primary objective. Hence, land disposals to the subsurface requires the ability for the disposed water to infiltrate before flowing overland and becoming a potential discharge to surface waters, including waters of the state and WOTUS. The burden of submitting the necessary information for DEC to make this determination will reside with the applicant upon request.

Per 18 AAC 15.100, the Department can issue a State general permit for a term of five years. The authorization for disposal under a State general permit can be administratively extended per 18 AAC 15.110. The permit term and administrative extension process is essentially the same for either APDES or state general permits.

1.2 Permit Issuance History – Hydrostatic This is third issuance of a hydrostatic and aquifer pump testing APDES permit. Prior to the first APDES permit, Hydrostatic testing discharges in Alaska were permitted since 2003 by the Department with the issuance of the first Contained Water general permit (Permit # 2003DB0089). The Department developed the first contained water general permit as a way to regulate certain discharges prior to assuming primacy of the National Pollutant Discharge Elimination System (NPDES) program on October 31, 2009. The 2003 Contained Water Permit and the 2009 reissuance of the permit authorized discharges from contained water isolated from the environment including hydrostatic testing. A condition of the permit required surface water discharges to meet permit effluent limits equal to state water quality standards (WQS) in 18 AAC 70.

During the current permit term, 17 authorizations were issued for hydrostatic discharges, with an average of three authorizations per year. Hydrostatic discharges were predominately related to the testing of new or used pipelines and tanks, as well as a few public water storage tank flushes.

Land discharges were to areas that were suitable for infiltration with no off-site discharges and monitoring consisted of visual sheen, turbidity, and presence of erosion. Permittees with land discharges were required to implement basic erosion and sediment control best management practices (BMP) to prevent erosion and sediment deposition. All prior discharges were authorized by site-specific authorization letters that often specified specific BMPs.

1.3 Permit Issuance History – Aquifer Pump Testing Aquifer pump testing discharges that are not incidental to the drilling of a well and eligible for the state permitting waiver in AS 46.03.100 have routinely been authorized through a non-domestic plan approval in accordance with 18 AAC 72. Extensive aquifer pump testing is frequently conducted during mining exploration to conduct hydrogeological investigations. During the current permit term, DEC has issued three aquifer pump test related discharge authorizations. However, there are existing mines that continue to expand and conduct groundwater studies, and the reissued permit will provide a permitting mechanism to cover the pump test discharges.

1.4 Summary of Significant Changes to the Hydrostatic and Aquifer Pump Testing General Permit

- Minor changes were made to reflect the required use of DEC's online permit application portal – Environmental Data Management System (EDMS) to the primary method for submission of Notice of Intent (NOI), Notice of Termination (NOT), and reporting, unless DEC approves of an alternative submission method.

2.0 DESCRIPTION OF INDUSTRY AND RECEIVING WATERS

2.1 Industry and Process Summary Hydrostatic testing is critical for the proper construction, installation, and operation of natural gas and oil pipelines as well as miscellaneous public utilities including water lines. To receive other permitting approvals to operate various petroleum transmission and distribution systems as well as public water systems, a successful leak detection test is required. Typical leak detection procedures normally consist of filling a pipeline or tank with water, and either pressurizing or observing for leaks under normal atmospheric pressure and then discharging the water. In addition to using hydrostatic testing to detect leaks, new water lines are often chlorinated during the testing to provide disinfection. The pipeline is then flushed to remove the chlorinated water. The hydrostatic discharge permit regulates the chlorine discharge when chlorinated potable water is used.

Hydrostatic testing is generally performed by sealing the piping to be tested and providing a water fill location. After the piping is full, pressure is applied to the desired level and held for several hours. Following the test, the pressure is released, and the piping is drained by gravity, pump, or air pressure. Hydrostatic testing is therefore a short-term batch discharge, but more than one discharge may occur if different sections of piping are tested. Hydrostatic testing can also involve filling tanks with water and testing under atmospheric pressure to check for leaks.

Aquifer pump testing discharges consist primarily of groundwater pumped from wells to determine aquifer well yields and other hydrogeological properties. The aquifer pump tests eligible for coverage under the permit are in support of mineral mining development and exploration. To develop dewatering plans for mines in areas with shallow water tables, aquifer pump tests are conducted to determine groundwater recharge rates and hydraulic conductivity within the geology. The aquifer pump tests involve pumping water from new or existing wells at a specified flow rate for an extended period to evaluate the impact on the water table. The pump tests are used to determine groundwater recharge rates, cone of depression, and the radii of influence contributable to different pumping rates.

2.2 Potential Industry Impacts on Water Quality Hydrostatic testing of existing pipelines may contain residues from natural gas, hydrocarbon condensates, or petroleum products, which prior to discharge must meet limits equal to applicable water quality criteria. Common treatment and control measures used for hydrostatic testing waters include one or more of the following methods: granular activated carbon filtration; velocity reduction on splash pads; erosion control; settling ponds; and pumping to upland areas for infiltration; however, more advanced treatment may be required if other parameters (e.g., total aqueous hydrocarbons) are identified as pollutants of concern in the application process. Reasonable potential for oil and grease, suspended solids, total residual chlorine, and pH affecting substances can occur in hydrostatic testing discharges and therefore there is a need to have effluent limits set to meet state water quality criteria to maintain and protect water body uses.

Discharges of aquifer pump testing will consist of groundwater and the primary pollutant of concern would be sediment; however, elevated naturally occurring metals or hydrocarbons maybe of a concern in certain situations as well (See Sections 3.3.3 and 3.3.4). Common treatment and control methods for

aquifer pump testing discharges would consist of control measures such as velocity dissipators, settling ponds, weir tanks, or other similar devices to remove sediment; however, more advanced treatment may be required if other parameters (e.g., metals) are identified as pollutants of concern in the application process.

2.3 Receiving Waters

2.3.1 Water Quality Standards Regulations in 18 AAC 70 require that the conditions in permits ensure compliance with the Alaska WQS. The state's WQS are composed of use classifications, numeric and/or narrative water quality criteria, and an Antidegradation Policy. The use classification system describes the designated and existing uses that each water body is expected to achieve. The numeric and/or narrative water quality criteria are the criteria deemed necessary by the State to support the beneficial use classification of each water body. The Antidegradation Policy ensures that the beneficial uses and existing water quality are maintained.

The protection of surface water occurs primarily through the development, adoption, and implementation of WQS and the use of WQS in APDES permits. The WQS designate specific uses that water quality must be maintained and protected. Alaska WQS designate seven uses for fresh waters (drinking water; agriculture; aquaculture; industrial; contact recreation; non-contact recreation; and growth and propagation of fish, shellfish, other aquatic life, and wildlife) and seven uses for marine waters (aquaculture; seafood processing; industrial; contact recreation; non-contact recreation; growth and propagation of fish, shellfish, other aquatic life, and wildlife; and harvesting raw mullusks or other raw aquatic life for human consumption).

Existing uses are “those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the WQS [40 CFR § 131.3(e)].” Designated uses are “those uses specified in water quality standards for each water body or segment whether or not they are being attained [40 CFR § 131.3(f)].” Water bodies in Alaska are designated for all uses unless the water has been reclassified under 18 AAC 70.230 as listed under 18 AAC 70.230(e). Some water bodies in Alaska can also have site-specific water quality criterion per 18 AAC 70.235, such as those listed under 18 AAC 70.236(b).

2.3.2 Impaired Surface Waters The CWA mandates that states monitor and report on the quality of their waters. Section 305(b) requires that the quality of all water bodies be characterized, and Section 303(d) requires that states list any water bodies that do not meet WQS. DEC develops and publishes an integrated water quality assessment report every two years as required by the CWA.

There are five categories to which a waterbody can be assigned:

- Categories 1 and 2 – Waters for which there is enough information to determine that water quality standards are attained for all or some of their designated uses.
- Category 3 – Waters for which there is not enough information to determine their status.
- Category 4 – Waters that are impaired but have one of several different types of waterbody recovery plans.
- Category 5 – Waters that are impaired and do not yet have waterbody recovery plans. Also known as 303(d) list impaired waters.

Waters that persistently do not meet Alaska's Water Quality Standards (18 AAC 70) are placed in Alaska's 303(d) Category 5 Impaired Waters List through the Integrated Reporting process. When a water is Category 5 listed, it triggers certain requirements for that water to move out of Category 5.

A Total Maximum Daily Load (TMDL) establishes the maximum amount of a pollutant allowed in a waterbody and serves as the starting point or planning tool for restoring water quality. A TMDL identifies pollution sources in a waterbody and calculates the amount or 'load' of that specific pollutant that the water can receive and still maintain WQS. TMDLs are a necessary first step toward waterbody recovery and are the primary tool per the CWA for a waterbody to be moved from the Alaska 303(d) Category 5 Impaired Waters List. TMDLs are approved by EPA and once approved, the waterbody moves to Category 4a, impaired with a recovery plan in place. TMDL implementation includes taking actions to improve water quality.

A permittee can access DEC's Integrated Water Quality Monitoring and Assessment Report and the Alaska's Section 303(d) List of Impaired Waterbodies at <https://dec.alaska.gov/water/water-quality/integrated-report/>.

3.0 PERMIT CONDITIONS

3.1 Coverage under this permit

3.1.1 Authorized Discharges Permit Part 1.3 outlines operations that are authorized under the permit. The included authorized consist of potable or non-potable water discharges from hydrostatic tests conducted on used and unused tanks, pipelines, and similar containers. The flushing of water pipelines and water storage tanks necessary to conduct maintenance or inspections is also authorized under the permit. Discharges associated with normal operation of a public water system defined as "Potable Water Distribution Systems Releases" are not required to obtain permit coverage under this general permit. These discharges are all critical to the proper operation of a public water system and often are unexpected and of very short duration. All hydrostatic testing and flushing discharges proposed for coverage are considered low risk as the discharges consist of relatively clean water associated with a temporary discharge.

The permit also authorizes the discharge of groundwater from aquifer pump testing to surface waters of the U.S., waters of the State or land. The discharges listed in Part 1.2 consist of aquifer pump testing water produced to conduct water quality or quantity tests, or hydrogeological investigations relating to mineral exploration or development. The authorized discharges shall meet Permit Parts 3-5.

3.1.2 Exclusions Permit Part 1.4 outlines discharges that are not authorized under the permit. Discharges that are not authorized must seek coverage under another applicable general permit or apply for and obtain an individual permit. The permit is to be used for hydrostatic testing including flushing and aquifer pump testing which consists of water free of any additives or chemicals with exception to chlorine in potable water supplies. Permit Part 1.5 describes conditions which would justify the requirement to issue an individual permit.

Hydrostatic testing associated with oil and gas facilities located on the North Slope Borough are eligible for coverage under permit AKG332000. The statewide oil and gas pipeline general permit AKG320000 covers hydrostatic testing discharges associated with the operation of hydrocarbon transport pipelines. The Hydrostatic and Aquifer Pump Testing permit was developed to cover all those other miscellaneous hydrostatic testing discharges throughout the state which discharge either to the land or waters of the U.S. As previously mentioned in Part 1.2, dual permit coverage for these types of discharges is not needed.

3.1.3 Individual Permits APDES regulations outline three situations where facilities that are eligible for coverage under a general permit or obtained coverage under a general permit will be required to seek coverage under an individual permit (18 AAC 83.215). First, the Department may require any person authorized by a permit to apply for and obtain an individual permit, or any interested person may petition the Department to take this action. Second, an applicant may request to be excluded from the coverage of the permit by applying for an individual permit. Third, a permittee who is already authorized by an individual permit may request permit coverage.

Permit Part 1.5 also outlines situations when the Department may require an individual permit, based upon the agency's request, and describes potential additional individual permit stipulations. Due to the temporary nature of hydrostatic testing and aquifer pump testing discharges and the risk posed to the environment from the discharge, the most logical permitting approach is coverage under a general permit. Discharges that are long-term or continuous and not associated with hydrostatic testing including flushing and aquifer pump testing may require coverage under an individual permit.

3.2 Authorization under this Permit

3.2.1 How to Obtain Authorization An NOI to be covered under the permit is required for entities that are conducting hydrostatic testing of tanks, pipelines, or similar containers, and aquifer pump testing that result in discharges authorized in accordance with Permit Part 1.3 for discharges to surface waters of the U.S., waters of the State or land. In accordance with Permit Part 2.2.1, the only land discharges that require NOI submittal are those aquifer pump test discharges of 30,000 gallons per day or greater; or pump testing discharges located conducted within 1,500 feet of an "DEC-identified contaminated site or groundwater plume¹". The notification requirements are outlined in Permit Part 2.2.1 as required per 18 AAC 83.210 (b).

Land discharges of hydrostatic testing including the flushing of water systems are automatically authorized without the submittal of an NOI in accordance with Permit Part 2.1.3. Hydrostatic testing including flushing discharges to land are required to be managed through BMPs as specified in Permit Parts 4.0 and 5.1 and records kept in accordance with Permit Part 6.0 of the permit. Land discharges of aquifer pump testing less than 30,000 gallons per day and located greater than a 1,500 feet from a "DEC-identified contaminated site or groundwater plume" are automatically authorized without the submittal of an NOI in accordance with Permit Part 2.1.3. These aquifer pump testing discharges are required to be managed through BMPs as specified in Parts 4.0 and 5.3 of the permit and records kept in accordance with Permit Part 6.0. A summary of the NOI submittal requirements for both hydrostatic and aquifer pump testing is including in an NOI submission flow chart attached in Appendix A.

3.2.2 How to Submit NOI Permit Part 2.2 requires permittees to either use DEC's online NOI system – Environmental Data Management System (EDMS) accessible at <https://dec.alaska.gov/water/edms>.

3.2.3 Submission Timeframes Timeframe for submitting discharge authorizations are contained in Table 2 of the permit, which identifies the category of discharger, NOI submission deadline, and NOI submittal requirements.

¹ A contaminated site or groundwater plume with an "Active" or "Cleanup Complete-Institutional Controls" status identified by DEC Contaminated Sites Program. For assistance in locating mapped contaminated sites and listing of groundwater plumes, see <https://dec.alaska.gov/spar/csp/>.

3.2.4 Date of Authorization to Begin Discharge A permittee is authorized to discharge hydrostatic or aquifer pump testing under the terms and conditions of the permit upon the date specified in the issuance of the DEC authorization letter, which is accessible via DEC’s website <https://dec.alaska.gov/water/edms>.

During the NOI review period, DEC may notify the permittee that additional action must be taken before discharge authorization is obtained, based on concerns regarding eligibility as described in Part 1.2.

3.2.5 Continuation of Expired General Permit If the permit is not reissued prior to the expiration date, it will be administratively extended in accordance with 18 AAC 83.155(c) and remain in force and effect. A permittee remains covered under the administratively continued permit, so long as prior to the expiration date, the permittee complies with the requirements of 18 AAC 83.155(c)(1). A permittee granted permit coverage prior to the expiration date will automatically be covered under the administratively continued permit until the earliest of the following:

- Reissuance or replacement of the permit, at which time the permittee must comply with the conditions of the new permit, as it applies to ongoing projects, to maintain authorization to discharge;
- Submittal of a NOT;
- Issuance of an individual permit for the project’s discharges; or
- A formal permit decision by DEC to not reissue the general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

3.2.6 NOI Submission Deadlines New Projects the operator must submit a complete and accurate NOI a minimum of 30-days prior to the date the discharge is to commence consistent with Part 2.2 NOI requirements.

Permitted ongoing projects from the prior general permit must submit a complete, accurate, and updated renewal NOI and BMP plan within 90 calendar days of the effective permit. If the permittee is eligible to submit a NOT (e.g., dewatering activities are completed) before the 90th day, a renewal NOI is not required to be submitted provided a NOT is submitted within the 90 calendar days after the effective date of this permit.

3.3 Compliance with Standards and Limits

3.3.1 Basis for Permit Effluent Limits The CWA requires that the limits for a particular pollutant discharged to waters of the U.S. be the more stringent of either technology-based effluent limits (TBELs) or water quality-based effluent limits (WQBELs). TBELs are established by EPA and are adopted by reference in regulation by DEC. TBELs are set according to the level of treatment that is achievable using available technology to protect water quality. A WQBEL is designed to ensure that the WQS for a water body is met. WQBELs may be more stringent than TBELs. EPA has not promulgated TBELs for hydrostatic discharges and aquifer pump testing surface water discharges.

WQBELs included in APDES permits are derived from WQS. APDES regulation 18 AAC 83.435(a)(1) requires that permits include WQBELs that can “achieve water quality standard established under CWA §303, including state narrative criteria for water quality.”

No TBELs exist for these specific types of discharges; therefore, the WQBELs set equal to applicable water quality criteria for those pollutants that are believed to be present will apply to all surface water discharges. Land discharges will be managed through BMPs, which are the best available demonstrated control technology to minimize pollutant discharges.

3.3.2 Land Discharging Operations The permit authorizes land discharges of hydrostatic and aquifer pump testing through the use of BMPs described in Permit Parts 4.0, 5.1, and 5.3. The Department has applied the narrative oil and grease criterion that all discharges shall be free of an oil sheen. Through the prohibition of an oil sheen discharge and the implementation of basic erosion and sediment BMPs at the point of discharge, all land discharges will be protective of the environment.

The BMPs include discharging into an area with permeable soils that allow complete infiltration to prevent a surface water discharge as well as erosion controls at the point of discharge. Through the use of appropriate erosion and sediment controls in addition to BMPs (i.e., settling basins, filter bags, or other similar filtering mechanisms), the land discharges will minimize environmental impact.

3.3.3 Surface Water Discharging Operations for Hydrostatic Testing For the purpose of the permit, hydrostatic testing and public water system flushing discharges primarily consist of water from new or used pipelines, tanks, and similar containers that are relatively free of pollutants, with exception to total residual chlorine in chlorinated water supplies. Hydrostatic testing of used pipelines, tanks, and similar containers may contain residual petroleum hydrocarbons, residues, and total residual chlorine if a chlorinated water supply is used. The presence of residual pollutants remaining in the pipelines, tanks, and similar containers potentially present a reasonable potential to exceed WQS so effluent limits and monitoring is implemented. Some discharges may require treatment to achieve the water quality criteria or implementation of BMPs described in Permit Parts 4.0 and 5.1.

3.3.3.1 Water Quality-Based Effluent Limits DEC concluded, based on application of the WQS and review of available sampling data, that pH, settleable solids, TAqH, TAH, total residual chlorine, and turbidity must be limited to meet the State's WQS for surface water discharges.

3.3.3.1.1 pH Alaska WQS at 18 AAC 70.020(b)(6)(A)(iii) and 18 AAC 70.020(b)(18)(C) states that the pH water quality criteria for the growth and propagation of fish, shellfish, other aquatic life, and wildlife for both fresh and marine water may not be less than 6.5 or greater than 8.5 standard units.

3.3.3.1.2 Settleable Solids Alaska WQS at 18 AAC 70.020(b)(9)(A)(i) and 18 AAC 70.020(b)(21)(B) states that the sediment water quality criteria for the fresh water drinking water supply and marine water contact recreation shall have no measureable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone method. The no measurable increase in settleable solids translates to a WQBEL of 0.2 milliliters per Liter (ml/L) above natural conditions.

3.3.3.1.3 TAqH Alaska WQS at 18 AAC 70.020(b)(5)(A)(ii) and 18 AAC 70.020(b)(17)(A)(ii) states that the petroleum hydrocarbons water quality criterion for the fresh water agriculture, including irrigation and stock watering supply use and marine water seafood processing water supply use may not cause a visible sheen upon the surface of the water.

Alaska WQS at 18 AAC 70.020(b)(5)(A)(iii) and 18 AAC 70.020(b)(17)(A)(i) states that the petroleum hydrocarbon water quality criteria for the fresh and marine water aquaculture water supply use shall not have a TAqH concentration in the water column to exceed 15 µg/L. The permit does not authorize a mixing zone; therefore, the WQBEL for TAqH will be assigned the WQC of 15 µg/L to be met at the point of discharge. The analytical measurement for TAqH consists of the sum of the monoaromatic hydrocarbons (TAH) plus the sum of the polynuclear aromatic hydrocarbons listed in EPA method 610 or 625. Monitoring for TAqH if a visual sheen is observed will provide assurance that the hydrostatic testing will not discharge any TAqH above the WQC into the receiving waterbody.

3.3.3.1.4 TAH Alaska WQS at 18 AAC 70.020(b)(5)(A)(ii) and 18 AAC 70.020(b)(17)(A)(ii) states that the petroleum hydrocarbon WQC for the fresh water agriculture, including irrigation and stock watering supply use and marine water seafood processing water supply use may not cause a visible sheen upon the surface of the water.

Alaska WQS at 18 AAC 70.020(b)(5)(A)(iii) and 18 AAC 70.020(b)(17)(A)(i) states that the petroleum hydrocarbon water quality criteria for the fresh and marine water aquaculture water supply use shall not have a TAH concentration in the water column to exceed 10 µg/L. The permit does not authorize a mixing zone; therefore, the QBEL for TAH will be assigned the WQC of 10 µg/L to be met at the point of discharge. The analytical measurement for TAH consists of summing the concentration of the monoaromatic hydrocarbons which include benzene, chlorobenzene, toluene, ethylbenzene, 1-3, 1-4, and 1-2 di-chlorobenzenes and total xylenes (sum of m, p, and o xylene). Monitoring for TAH if a visual sheen is observed will provide assurance that the hydrostatic testing will not discharge any TAH above the WQC into the receiving water body

3.3.3.1.5 Total Residual Chlorine (TRC) The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The most stringent WQC for TRC is the acute water quality criteria for the protection of aquatic life in both fresh water and marine water. The acute criteria of 19 µg/L for fresh water and 13 µg/L for marine water were set as the QBEL in this permit. The acute criteria are based on the average concentration of a chemical pollutant during a one-hour period which would be most representative of a short duration hydrostatic discharge. Since the effluent limit is below the EPA Quantification level for residual chlorine, a minimum level of quantification, 0.1 mg/l will be used in the permit as a compliance level as the maximum effluent concentration of TRC that can be discharged to waters of the U.S.

3.3.3.1.6 Turbidity Alaska WQS at 18 AAC 70.020(b)(12)(B)(i) states that the turbidity WQC for the fresh water contact recreation use may not exceed 5 NTUs above natural conditions when the natural turbidity is 50 NTU or less, and may not have more than a 10% increase in turbidity when the natural turbidity is more than 50 NTU, not to exceed a maximum increase of 15 NTU. Turbidity may not exceed 5 NTU above natural turbidity for all lake waters. Alaska WQS at 18 AAC 70.020(b)(24)(A)(i) states that the turbidity WQC for the marine water aquaculture water supply shall not exceed 25 NTUs.

3.3.4 Surface Water Discharging Operations for Aquifer Pump Testing (mineral mining development/exploration only) For the purposes of the permit, discharges of aquifer pump testing will primarily consist of groundwater pumped from an existing or new well to conduct groundwater studies. Aquifer pump tests may contain suspended solids, total dissolved solids, and naturally occurring metals all of which may have reasonable potential to exceed state WQS. Accordingly, effluent limits and monitoring will be required to assess pollutant concentrations. The larger scale aquifer pump tests that may not have the option for land disposal are typically associated with mineral mining in geologic formations that may have naturally occurring metals present in groundwater.

Discharges to waters of the U.S. must meet the effluent limits listed in Table 5 of the general permit for pH, settleable solids, TAqH, TAH, total antimony, total arsenic, total cadmium, total chromium, total copper, total lead, total mercury, total molybdenum, total nickel, total selenium, total zinc, total dissolved solids, and turbidity. Monitoring for these pollutants and achieving QBELs will provide protection for all existing uses of fresh or marine waters. Sampling for total metals will be required with the NOI submittal, so the Department can evaluate if additional monitoring for treatment is required. If

concentrations of metals naturally occurring in the groundwater exceed WQS, treatment would be necessary and may also require engineering plan approval per 18 AAC 72.010.

3.3.4.1 Water Quality-Based Effluent Limits

3.3.4.1.1 pH Alaska WQS at 18 AAC 70.020(b)(6)(A)(iii) and 18 AAC 70.020(b)(18)(C) states that the pH water quality criteria for the growth and propagation of fish, shellfish, other aquatic life, and wildlife for both fresh and marine water may not be less than 6.5 or greater than 8.5 standard units.

3.3.4.1.2 Settleable Solids Alaska WQS at 18 AAC 70.020(b)(9)(A)(i) and 18 AAC 70.020(b)(21)(B) states that the sediment WQC for the fresh water drinking water supply and marine water contact recreation shall have no measureable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone method. The no measurable increase in settleable solids translates to a WQBEL of 0.2 milliliters per Liter (ml/L) above natural conditions.

3.3.4.1.3 TAqH Alaska WQS at 18 AAC 70.020(b)(5)(A)(ii) and 18 AAC 70.020(b)(17)(A)(ii) states that the petroleum hydrocarbons WQC for the fresh water agriculture, including irrigation and stock watering supply use and marine water seafood processing water supply use may not cause a visible sheen upon the surface of the water.

Alaska WQS at 18 AAC 70.020(b)(5)(A)(iii) and 18 AAC 70.020(b)(17)(A)(i) states that the petroleum hydrocarbon WQC for the fresh and marine water aquaculture water supply use shall not have a TAqH concentration in the water column to exceed 15 µg/L. Since this permit does not authorize a mixing zone; therefore, the WQBEL for TAqH will be assigned the WQS of 15 µg/L to be met at the point of discharge. The analytical measurement for TAqH consists of the sum of the monoaromatic hydrocarbons (TAH) plus the sum of the polynuclear aromatic hydrocarbons listed in EPA method 610 or 625. Monitoring for TAqH if a visual sheen is observed will provide assurance that the aquifer pump testing will not discharge any TAqH above the water quality criteria into the receiving water body.

3.3.4.1.4 TAH Alaska WQS at 18 AAC 70.020(b)(5)(A)(ii) and 18 AAC 70.020(b)(17)(A)(ii) states that the petroleum hydrocarbon WQC for the fresh water agriculture, including irrigation and stock watering supply use and marine water seafood processing water supply use may not cause a visible sheen upon the surface of the water.

Alaska WQS at 18 AAC 70.020(b)(5)(A)(iii) and 18 AAC 70.020(b)(17)(A)(i) states that the petroleum hydrocarbon WQC for the fresh and marine water aquaculture water supply use shall not have a TAH concentration in the water column to exceed 10 µg/L. Since this permit does not authorize a mixing zone; therefore, the WQBEL for TAH will be assigned the WQS of 10 µg/L to be met at the point of discharge. The analytical measurement for TAH consists of summing the concentration of the monoaromatic hydrocarbons which include benzene, chlorobenzene, toluene, ethylbenzene, 1-3, 1-4, and 1-2 di-chlorobenzenes and total xylenes (sum of m, p, and o xylene). Monitoring for TAH if a visual sheen is observed will provide assurance that the aquifer pump testing will not discharge TAH above the water quality criteria into the receiving water body.

3.3.4.1.5 Total Antimony The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total antimony water quality criterion for fresh and marine water drinking water supply use shall not exceed 6 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.6 Total Arsenic The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total arsenic water quality criterion for fresh and marine water drinking water supply use shall not exceed 10 µg/L.

3.3.4.1.7 Total Cadmium The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total cadmium water quality criterion for fresh and marine water drinking water supply use shall not exceed 5 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.8 Total Chromium The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total chromium water quality criterion for fresh and marine water drinking water supply use shall not exceed 100 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.9 Total Copper The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total copper water quality criterion for fresh and marine water irrigation water supply use shall not exceed 200 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.10 Total Lead The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total lead water quality criterion for fresh and marine water stock water supply use shall not exceed 50 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.11 Total Mercury The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total mercury water quality criterion for fresh and marine water drinking water supply use shall not exceed 2 µg/L. Note, additional aquatic or human health life criteria may apply in the final authorization to discharge.

3.3.4.1.12 Total Molybdenum The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total molybdenum water quality criterion for fresh and marine water irrigation water supply use shall not exceed 10 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.13 Total Nickel The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total nickel water quality criterion for fresh and marine water irrigation water supply use shall not exceed 200 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.14 Total Selenium The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total selenium water quality criterion for fresh and marine water stock water supply use shall not exceed 10 µg/L.

3.3.4.1.15 Total Zinc The WQS for toxic and other deleterious organic and inorganic substances for fresh water uses are codified in 18 AAC 70.020(b)(11) and for marine water uses in 18 AAC 70.020(b)(23). The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states the total nickel water quality criterion for fresh and marine water irrigation water supply use shall not exceed 2,000 µg/L. Note, additional aquatic life criteria may apply in the final authorization to discharge.

3.3.4.1.16 Total Dissolved Solids (TDS) Alaska WQS at 18 AAC 70.020(b)(5)(A)(i) states that the TDS water quality criteria for the drinking, culinary, and food processing water supply use for fresh water may not exceed 500 mg/l with the maximum concentrations of neither chloride nor sulfates to exceed 250 mg/L. The *Alaska Water Quality Criteria Manual for Toxic and other Deleterious Organic and Inorganic Substances* states chloride shall not exceed 230 mg/L for protection of aquatic life for fresh water. The permit only sets WQBELs for TDS for fresh water discharges as marine discharges would be to a marine environment with a high natural salinity and natural groundwater would not have a reasonable potential to exceed the marine water WQS.

3.3.4.1.17 Turbidity Alaska WQS at 18 AAC 70.020(b)(12)(B)(i) states that the turbidity water quality criteria for the fresh water contact recreation use may not exceed 5 NTUs above natural conditions when the natural turbidity is 50 NTU or less, and may not have more than a 10% increase in turbidity when the natural turbidity is more than 50 NTU, not to exceed a maximum increase of 15 NTU. Turbidity may not exceed 5 NTU above natural turbidity for all lake waters.

Alaska WQS at 18 AAC 70.020(b)(24)(A)(i) states that the turbidity water quality criteria for the marine water aquaculture water supply shall not exceed 25 NTUs.

3.3.5 Discharge to Impaired Water Body For the purposes of the general permit, the CWA §303(d) impaired water bodies are those cited in the *Final DEC 2014/2016 Integrated Report* or most current EPA-approved version. If the permittee is discharging into a water body with an EPA-established or approved Total Maximum Daily Load (TMDL), the permittee must implement measures to ensure that the discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including ensuring that the discharge does not exceed specific wasteload or load allocation that has been established that would apply to the discharge. The permittee must also evaluate the recommendations in the Implementation Section of the TMDL and incorporate applicable measures into the operations.

3.4 Control Measures

3.4.1 Best Management Practices (BMPs) BMPs are measures that are intended to prevent or minimize the generation and the potential for the release of pollutants to either land or waters of the U.S. All discharges of either hydrostatic or aquifer pump testing are to be managed with appropriate BMPs to minimize environmental impact. The BMPs for land discharges would consist of basic erosion and sediment controls within the land disposal areas. Examples of BMPs for erosion control at the point of discharge would be velocity dissipation devices such as rock lined channels to reduce the erosive velocity of the water. Sediment controls such as rock check dams and other similar temporary constructed settling basins could be implemented to provide settling areas for sediment.

Specific BMPs such as temporary lined settling basins, filter bags, or other similar filtering and retention mechanisms are to be used to reduce sediment discharges to the land. The general permit allows permittees the flexibility to use these BMPs or similar devices as a means to control erosion at the discharge point and reduce sediment deposition within the land disposal area. Discharges for aquifer pump testing within 1,500 feet of an “DEC-identified contaminated site or groundwater plume” will require additional information to be submitted about the contaminated site in accordance to Permit Part 2.2.7. The BMP plan must also provide a more detailed description of the land disposal area including soils and geology information to provide assurance that either discharges to the land or water will be managed appropriately to minimize the discharge of pollutants. Applicants will be required to submit their signed BMP plan with a completed NOI for all discharges that require NOI submittal in accordance with Permit Part 2.2.

3.5 Limitations, Inspections, and Monitoring Requirements APDES regulations require that permits include monitoring to determine compliance with permit requirements (18 AAC 83.455). Monitoring may also be required to gather data for future effluent limitations or to monitor effluent impacts on receiving water quality. The permittee is responsible for conducting the monitoring and for reporting results to DEC.

3.5.1 Land Discharge Operations The permit automatically authorizes land discharges of hydrostatic testing in accordance with Permit Part 2.1.3. All land discharges either automatically authorized or land discharges of aquifer pump testing authorized through an NOI in accordance with Permit Part 2.2 are required to implement BMPs in accordance to Parts 4.0, 5.1 or 5.3 of the permit. The permit allows for the flexibility of BMPs to control erosion and sedimentation at the disposal area and also promote greater infiltration. The only monitoring required for all land discharges is a visual assessment for seepage and erosion at the point of discharge. Visual monitoring will ensure that BMPs are effective to reduce the sediment deposition in the infiltration area and no petroleum products are discharged to land the surface. Visual monitoring is required on a daily basis along with documenting the estimated daily flow rate, all of which are to be recorded and kept on file in accordance to Permit Part 6.1.

3.5.2 Surface Water Discharge Operations for Hydrostatic Testing The permit requires effluent monitoring for all hydrostatic testing including flushing discharges to waters of the U.S. Effluent limits were established for pH, settleable solids, TAqH, TAH, turbidity, and total residual chlorine. Effluent monitoring requirements listed in Table 4 of the permit consist of collecting all effluent samples prior to discharge to assure all WQS are met. As a precautionary measure, all discharges shall be monitored for a daily visual sheen and a daily flow rate estimate. The monitoring for TAqH and TAH is only required for used tanks, pipelines, similar containers and residual chlorine for testing conducted with chlorinated water. The required monitoring will provide assurance that the permittees will install BMPs or treatment that will provide protection of water quality.

3.5.3 Surface Water Discharge Operations for Aquifer Pump Testing The permit requires effluent monitoring for all aquifer pump testing discharges to waters of the U.S. Effluent limits were established for pH, settleable solids, TAqH, TAH, total antimony, total arsenic, total cadmium, total chromium, total copper, total lead, total mercury, total molybdenum, total nickel, total selenium, total zinc, total dissolved solids, and turbidity. The total metals analysis will be required to be submitted with the NOI so the Department can determine if additional treatment may be needed prior to issuing the discharge authorization. Effluent monitoring requirements listed in Table 6 of the permit consist of collecting all other effluent samples prior to discharge to assure all WQS are met. As a precautionary measure, all discharges shall be monitored for a daily visual sheen and a daily flow rate estimate. The required monitoring will provide assurance that the permittees will install BMPs or treatment that will provide protection of water quality.

3.5.4 Quality Assurance Project Plan The permittee must develop and implement a quality assurance project plan (QAPP) for all monitoring required by this permit for discharges to waters of the U.S. The QAPP must be developed and implemented in accordance with Permit Part 5.5. Any existing QAPP may be modified under this section.

3.6 Reporting and Record Keeping Permit Part 6.0 contains recording and reporting requirements that are either based on standard regulatory language found in Appendix A or are specific to the general permit. The permit requires the permittee to maintain daily records which must be kept for a period of three years after the termination of the discharge and made available upon request. Permit Part 6.2 requires permittees with a discharge to waters of the U.S. or waters of the State to submit a summary of effluent monitoring data with their Notice of Termination (NOT) at project completion, or if the project duration is greater than one year, submit to DEC via EDMS no later than the 28th day of the month past the annual issuance date, whichever occurs sooner. Additionally, Permit Appendix A, Part 3.4 (Twenty-four Hour Reporting), requires reports of any noncompliance event that may endanger health or the environment to be submitted orally within 24 hours after the permittee becomes aware of the circumstances and in writing within five days after the permittee becomes aware of the circumstances.

3.7 Terminating Coverage

3.7.1 Submitting a Notice of Termination Permit Part 7.1 requires permittees to submit the Notices of Termination (NOT) via EDMS or unless DEC approves another method of submittal within thirty days upon completion of the hydrostatic or aquifer pump testing that received coverage through the submittal of an NOI in accordance with Permit Part 2.2.

3.8 Standard Conditions Appendix A of the permit contains standard regulatory language that must be included in all APDES permits. These requirements are based on the regulations and cannot be challenged in the context of an individual APDES permit action. The standard regulatory language

covers requirements such as monitoring, recording, reporting requirements, compliance responsibilities, and other general requirements.

3.9 Permit Expiration The permit will expire five years from the effective date of the permit.

4.0 ANTIBACKSLIDING

Anti-backsliding requirements found in 18 AAC 83.480(a) prohibit relaxation of effluent limitations, standards, or conditions when a permit is reissued, except under prescribed circumstances. 18 AAC 83.480(c) also states that a permit may not be reissued “to contain an effluent limitation that is less stringent than required by effluent guidelines in effect at the time the permit is renewed or reissued.” This reissued permit does not contain effluent limitations that are less stringent than the previous permit, therefore, antibacksliding analysis under 18 AAC 83.480(c) does not apply.

5.0 ANTIDegradation

The antidegradation policy of the Alaska Water Quality Standards requires that the existing water uses and the level of water quality necessary to protect existing uses must be maintained and protected; and if the quality of water exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality must be maintained and protected (18 AAC 70.015). The Department will authorize a reduction in water quality only after the applicant submits evidence in support of the application and the Department finds that specific requirements of the antidegradation policy are satisfied.

The Department’s approach to implementing the antidegradation policy is found in 18 AAC 70.016 (Antidegradation implementation methods for discharges authorized under the federal Clean Water Act). Using these requirements and policies, the Department determines whether a waterbody or portion of a waterbody is classified as Tier 1, Tier 2, or Tier 3. A higher tier indicates a greater level of water quality protection. Antidegradation analyses generally conservatively presume that all operations under a general permit will be in Tier 2 waters [18 AAC 70.016(c)(1)]. At this time, the Department has not designated any Tier 3 waters in Alaska.

Antidegradation implementation methods at 18 AAC 70.016(c)(3) state that “the Department will not conduct a Tier 2 antidegradation analysis for (A) reissuance of a license or general or individual permit for a discharge that the applicant is not proposing to expand; (B) issuance of a license or general or individual permit for an existing discharge that did not previously require authorization and that the applicant is not proposing to expand; or (C) reissuance of an administratively extended license or permit, if the applicant is not proposing an expanded discharge.” Because the reissued general permit does not propose expansion of discharge coverage, a Tier 2 antidegradation analysis is not required for this issuance.

6.0 OTHER LEGAL REQUIREMENTS

6.1 Endangered Species Act The National Marine Fisheries Service (NMFS) is responsible for administration of the Endangered Species Act (ESA) for listed cetaceans, seals, sea lions, sea turtles, anadromous fish, marine fish, marine plants, and corals. All other species (including polar bears, walrus, and sea otters) are administered by the U.S. Fish and Wildlife Service (USFWS). The ESA requires federal agencies to consult with NMFS and USFWS (collectively referred to as the Services) if their

actions could beneficially or adversely affect any threatened or endangered species. As a state agency, DEC is not required to consult with the Services regarding permitting actions. However, the Department values input from the Services and will solicit comments from them on reissuance of this permit.

6.2 Essential Fish Habitat The Magnuson-Stevens Fishery Conservation and Management Act (January 21, 1999) designates Essential Fish Habitat (EFH) in waters used by anadromous salmon and various life stages of marine fish under NMFS jurisdiction. EFH refers to those waters and associated river bottom substrates necessary for fish spawning, breeding, feeding, or growth to maturity—including aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish. Spawning, breeding, feeding, or growth to maturity covers a species' full life cycle necessary for fish from commercially-fished species to spawn, breed, feed, or grow to maturity.

The EFH regulations define an adverse effect as any impact which reduces quality and/or quantity of EFH and may include direct (e.g. contamination or physical disruption), indirect (e.g. loss of prey, reduction in species' fecundity), site-specific, or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

Section 305(b) of the Magnuson-Stevens Act 916 USC 1855(b)) requires federal agencies to consult the NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may have an adverse effect on designated EFH as defined by the Act. As a state agency, DEC is not required to consult with NMFS regarding permitting actions, but interacts voluntarily with NMFS to identify EFH.

To protect EFH the permit Part 2.2.9.1 requires the permittee to contact ADF&G Office of Habitat for all discharges to fish bearing water bodies.

7.0 REFERENCES

- ADF&G (Alaska Department of Fish and Game). *Catalog of Waters Important For Spawning, Rearing, or Migration of Anadromous Fishes*. ADF&G, Habitat Division, 6 vols., Anchorage, Alaska. Revised periodically. <https://www.adfg.alaska.gov/sf/SARR/AWC/>
- DEC (Alaska Department of Environmental Conservation). 2003a. *Alaska Water Quality Criteria Manual for Toxic and Other Deleterious Organic and Inorganic Substance*, as amended through December 12, 2008. State of Alaska, Department of Environmental Conservation.
- DEC. 2003b. 18 AAC 70 Water Quality Standards. State of Alaska, Department of Environmental Conservation.
- DEC. 2008. National Pollutant Discharge Elimination System Memorandum of Agreement Between State of Alaska and United States Environmental Protection Agency Region 10, as amended through August 11, 2011.
- DEC. *Integrated Water Quality Monitoring and Assessment Report – Alaska’s List of Impaired or 303(d) listed waterbodies*. State of Alaska, Department of Environmental Conservation. <https://dec.alaska.gov/water/water-quality/integrated-report/>
- EPA (Environmental Protection Agency). 1991. Technical Support Document for Water Quality-based Toxics Control. US Environmental Protection Agency, Office of Water, EPA /505/2-90-001, Washington, DC.

APPENDIX A. NOI SUBMITTAL REQUIREMENT FLOW CHART