

409 food additive regulation for captain in or on raisins (59 FR 33941). That proposal was based on a determination that captan induces cancer in animals, and thus, the regulation violates the Delaney clause in section 409 of the FFDCFA. However, the Agency could finalize revocation of the captan raisin regulation on the grounds requested in the petition announced in this notice.

Pursuant to 40 CFR 177.125 and 177.130, EPA may issue an order ruling on the petition or may issue a proposal in response to the petition and seek further comment. If EPA issues an order in response to the petition, any person adversely affected by the order may file written objections and a request for a hearing on those objections with EPA on or before the 30th day after date of the publication of the order, (40 CFR 178.20).

A record has been established for this document under docket number [PF-643] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Dated: January 25, 1996.

Penelope A. Fenner-Crisp,

Acting Director, Office of Pesticide Programs.

[FR Doc. 96-1904 Filed 1-26-96; 2:55 pm]

BILLING CODE 6560-50-M

[OPPTS-44620; FRL-4993-7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on N-methylpyrrolidone (NMP) (CAS No. 872-50-4), and glycidyl methacrylate (GMA) (CAS No. 106-91-2), submitted pursuant to testing consent orders under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA. **FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that the results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for N-methylpyrrolidone (NMP) were submitted by the NMP Producers Group pursuant to a testing consent order at 40 CFR 799.5000. They were received by EPA on November 22, 1995. The submission includes three final reports entitled "N-Methylpyrrolidone - Subchronic Oral Toxicity Study in B6C3F1 Mice, Administration in the Diet for 3 Months"; "Subchronic Oral Toxicity: 90-Day Feeding and Neurotoxicity Study in Rats with N-Methylpyrrolidone (NMP)"; and "Oral, Dermal, and Inhalation Pharmacokinetics and Disposition of [2-14C] NMP in the Rat". This chemical is an inert, stable, polar solvent that is used in a wide variety of processes. Its commercial uses result from its strong and frequently selective solvent power. One of the major uses of NMP is the extraction of aromatics from lubricating oils. It is also used as a medium for polymerization and as a solvent for finished polymers. It is the preferred solvent in a variety of chemical reactions and the manufacture of numerous chemical intermediates and in products such as plastics, surface coatings, and pesticides. An important new use of this chemical is as a substitute for methylene chloride in paint strippers. NMP is also used in the recovery and purification of acetylenes, olefins, and diolefins, in the removal of

sulfur compounds from natural and refinery gases, and in the dehydration of natural gas.

Test data for glycidyl methacrylate were submitted by the GMA Industry Group pursuant to a testing consent order at 40 CFR 799.5000. They were received by EPA on December 4, 1995. The submission includes two final reports entitled "Evaluation of Glycidyl Methacrylate (GMA) in the Chinese Hamster Ovary Cell/Hypoxanthine-Guanine-Phosphoribosyl Transferase (CHO/HGPRT) Forward Mutation Assay"; and "Evaluation of Glycidyl Methacrylate (GMA) in the Mouse Bone Marrow Micronucleus Test". GMA, a glycidol derivative, is an epoxy resin additive used in paint coating formulations and adhesive applications.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS-44620). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B-607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.
Dated: January 26, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96-1963 Filed 1-30-96; 8:45 am]

BILLING CODE 6560-50-F

[FRL-5404-6]

Proposed General NPDES Permit for Placer Mining in Alaska

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of a proposed general permit.

SUMMARY: This is a proposal to modify general permit regulating placer mining activities in the State of Alaska. On May 31, 1994, EPA Region 10 published a general permit for discharges of wastewater from placer mines in Alaska. 59 FR 28079, May 31, 1994. If issued, the proposed modified permit would modify effluent limitations, standards,

prohibitions and other conditions on wastewater discharges set forth in the Alaska placer miner general permit. These conditions are based on existing national effluent guidelines, state water quality standards and material contained in the administrative record. A description of the basis for the conditions and requirements of the proposed modified general permit, and especially of the basis for the proposed modifications, is given in the fact sheet.

EXECUTIVE ORDER 12866: The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866.

UNFUNDED MANDATES REFORM ACT: Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), EPA must prepare a written statement to accompany any rules with Federal mandates that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required, EPA must identify and consider alternatives that achieve the objective of such a rule. EPA must select the alternative that is the least costly, most cost-effective or least burdensome, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Because the proposed modification will not impose costs in excess of \$100 million, it imposes no unfunded mandate within the meaning of the Unfunded Mandates Act.

PUBLIC COMMENT PERIOD: Interested persons may submit comments on the proposed modified general permit to EPA, Region 10 at the address below. Comments must be received in the regional office by March 18, 1996.

PUBLIC HEARINGS: A public hearing will be held in Fairbanks, Alaska, on March 5, 1996 from 6:30 p.m. until 11:00 p.m. at the offices of the State of Alaska Department of Natural Resources, Division of Mining and Water Management, 3700 Airport Way.

REQUEST FOR COVERAGE: Written request for coverage and authorization to discharge under the general permit shall be provided to EPA, Region 10, as described in Part I.E. of the draft modified permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to the operation.

ADDRESSES: Comments on the proposed general permit should be sent to Tim Hamlin; U.S. EPA, Region 10; 1200 Sixth Avenue SO-155; Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Tim Hamlin at the Seattle address above or by telephone at (206) 553-8311.

Dated: January 11, 1996.
Phil Millam,
Acting Director, Office of Water.

Fact Sheet

United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WD-134, Seattle, Washington 98101. (206) 553-1214.
General Permit for Placer Miners No.: AKG-37-0000.

Proposed Modification of a General National Pollutant Discharge Elimination System (NPDES) Permit To Discharge Pollutants Pursuant to the Provisions of the Clean Water Act (CWA) for Alaska Placer Miners (except those identified in Part III of this Fact Sheet)

This fact sheet includes (a) the tentative determination of the Environmental Protection Agency (EPA) to modify the NPDES general permit issued on May 13, 1994 and published at 59 FR 28079 (May 31, 1994), (b) information on public comment, public hearings and appeal, (c) the description of the industry and proposed discharges, (d) other conditions and requirements.

Persons wishing to comment on the tentative determinations contained in the proposed modification to the general permit may do so before the expiration date of the Public Notice. All written comments should be submitted to EPA as described in the Public Comments Section of the attached Public Notice. After the expiration date of the Public Notice, the Director, Office of Water, will make a final determination with respect to issuance of the permit. The modifications to the general permit will become effective 30 days after the final determination is made.

The proposed modifications to the NPDES general permit and other related documents are on file and may be inspected and copies made at the above address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to EPA at the above address to the attention of the Water Permits Section, or by calling (206) 553-8332. This material is also available from the EPA Alaska Operations Office, Room 537, Federal Building, 222 West 7th Avenue, Anchorage, Alaska 99513-7588 or Alaska Operations Office, 410 Willoughby Avenue, Suite 100, Juneau, Alaska 99801 or the Alaska Department of Environmental Conservation, Northern Regional Office, 610

University Avenue, Fairbanks, Alaska 99709.

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Technical Information

I. Background Information

A. History

Regulation of discharges from gold placer mining operations in Alaska has been a matter of extreme controversy since enactment of the Clean Water Act. Starting in 1976 and 1977, EPA issued approximately 170 individual NPDES permits to Alaskan gold placer miners. Those permits were challenged administratively. Some parties argued that the permits were not stringent enough, others argued that the permits were too stringent. EPA issued an additional 269 individual NPDES permits for gold placer mining in 1983. All of those permits were challenged judicially in *Trustees for Alaska v. EPA*, 749 F.2d 549 (9th Cir. 1984).

EPA issued a new round of individual permits (446 in total) in 1984 to replace

expiring permits and to incorporate new promulgated regulations. In 1985, EPA modified the 1984 permits, based on the *Trustee for Alaska* decision, and issued 93 additional permits. In 1987, EPA issued an additional 368 new permits. The 1987 permits were the subject of litigation based on allegations that EPA and the State unreasonably delayed acting on requests for hearings on those permits in *Stein v. Kelso, Case No. F89-21 Civil (D.Alaska)* (litigation against EPA). The case against EPA was eventually dismissed as moot on April 12, 1990.

The permits that EPA did issue in 1985 and 1987 were challenged administratively and, ultimately, judicially in *Ackels v. EPA*, 7 F.3d 862 (9th Cir. 1993). A decision by the State of Alaska to certify the 1985 permits was ultimately resolved by the Alaska Supreme Court in *Miners Advocacy Council, Inc. v. State Dep't of Env'tl. Conservation*, 778 P.2d 1126 (Alaska 1989), cert. denied, 493 U.S. 1077 (1990). The State's certification of the 1987 permits was also challenged in *Stein v. Kelso*, 846 P.2d 123 (Alaska 1993).

During the pendency of the permit proceedings described above, EPA also was sued in the United States District Court for the District of Alaska in 1986. That case raised a variety of statutory and constitutional issues, which were ultimately dismissed or resolved in the federal courts. One of the concerns raised in the 1986 litigation, whether EPA had a duty to promulgate national effluent limitations guidelines for the gold placer mining point source category, was eventually resolved when EPA published such guidelines in 1988. See 40 CFR Part 440 Subpart M. Those guidelines also were the subject of litigation in *Rybachek v. EPA*, 904 F.2d 1276 (9th Cir. 1990).

On June 30, 1992, EPA received a notice of citizen suit which alleged that EPA failed to perform a non-discretionary duty to regulate suction dredge gold placer mining operations. At that time, EPA decided it would issue individual permits for mechanical placer mining operations (for the 1993 mining season) and that it would propose a general permit for suction dredge operations. On January 14, 1994, EPA did propose such a general permit, although permit coverage was proposed for mechanical, as well as suction dredge operations. 59 FR 2504 (Jan. 14, 1994). After responding to public comment, EPA issued the final general permit on May 13, 1994. 59 FR 28079 (May 31, 1994). On September 28, 1994, two environmental groups filed a petition for review of the general permit

in the Ninth Circuit. Without any admission or denial of any of the Petitioners' allegations, EPA is proposing to modify the general permit today.

B. Permit Coverage

1. General Permit

a. Section 301(a) of the CWA provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although individual permits have been issued to individual dischargers on a case-by-case basis, EPA's regulations also authorize the issuance of "general permits" to categories of discharges [40 CFR 122.28] when a number of point sources are:

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

EPA finds that the placer mining discharges to be permitted under the modified general permit proposed for modification today meet these criteria. To the extent that any given placer mining operation warrants different effluent limitations because of site-specific factors pertaining to turbidity, such would be accounted for under Section II.A.1.c. of the permit.

b. Like individual permits, a violation of a condition contained in a general permit constitutes a violation of the Act and subjects the owner or operator of the permitted facility to the penalties specified in Section 309 of the Act.

c. A Notice of Intent (NOI) to be covered under this modified General Permit would be required [40 CFR 122.28(b)(2)(i)], including new NOIs from permittees already covered under the May 31, 1994 general permit (i.e., dischargers covered under the permit prior to today's proposed modification). The NOI requirements are outlined in Part I.F. of the permit. A State of Alaska Annual Placer Mining Application, or other document, would be acceptable if it contains all the items specified in the permit.

d. This modification would not affect the duration of the May 31, 1994 general permit. The modified permit would

expire five (5) years from the date of issuance of the original permit, specifically, on June 30, 1999. Permittees covered under this modified general permit may continue to discharge according to its terms after expiration of the permit provided those permittees submit a timely and complete application for renewal—i.e., a new NOI—prior to expiration. Only those facilities authorized to discharge under the modified permit prior to its expiration who submit a NOI 90 days prior to the expiration may continue to claim coverage under the administratively continued permit. After expiration, no "new dischargers" may claim general permit coverage until it is reissued.

2. Types of Placer Mine Operations Covered by the Permit

EPA is proposing to modify the NPDES general permit for Alaska placer mining operations issued on May 31, 1994. The modified general permit would apply to certain facilities that mine and process gold placer ores using gravity separation methods to recover the gold metal contained in the ore. Specifically, the modified general permit would not apply to certain types of mining operations currently authorized under the May 31, 1994 permit. Discharges from some suction dredge operations, discharges from operations using hydraulic removal of overburden, and discharges from operations into special use waters would no longer be eligible for coverage under the general permit as modified. Discharges from operations using certain beneficiation methods would continue to be ineligible for coverage under the general permit as modified. The modified permit would apply to all open-cut and mechanical dredge gold placer mines except those open-cut mines that mine less than 1,500 cubic yards of placer ore per mining season and mechanical dredges that remove less than 50,000 cubic yards of placer ore per mining season. These operations are covered by the effluent guidelines and described in 40 CFR 440.140(b).

EPA previously completed a literature research project considering the environmental effects of suction dredge operation and potential controls that could be placed on them. (North, 1993.) This project considered effects of suction dredge operations and recommended that additional study be undertaken on the effects of suction dredging with intake hoses larger than eight inches in size. EPA has not had the opportunity to study the effects of larger operations. Thus, the modified general permit would only authorize

discharges by suction dredge operations with intake hoses of eight inches or less; it would not authorize discharges by suction dredge operations with intake hoses larger than eight inches. Any such discharges would require coverage under an individual permit. All suction dredge operations with intake hoses of eight inches and less would be eligible for coverage under the proposed modified general permit.

Discharges resulting from hydraulic removal of overburden would not be covered by this modified permit. Discharges from ponds containing both "sluice water" and wastewater from hydraulicking would not be authorized by the modified general permit. (Hydraulicking refers both to the hydraulic removal of overburden and the use of hydraulic power to move raw rock to the point of processing, *i.e.* to the gate of the sluice or other processing equipment).

Individual NPDES permits issued previously did not cover discharges associated with hydraulic removal of overburden. These permits were challenged administratively. The EPA Environmental Appeals Board in its September 3, 1992 Remand Order of NPDES Appeal No. 91-23 sanctioned EPA's position that a site-specific factual analysis is necessary to determine the precise terms of any permit that authorizes discharges from hydraulic removal of overburden. It also required EPA to consider an applicant's entire process when the applicant so requests.

Because of the site-specific analysis necessary for discharges associated with hydraulicking, EPA proposes not to authorize such discharges under the today's modified general permit. Thus, such discharges would also require coverage under an individual permit.

Finally, this permit would not authorize discharges resulting from beneficiation methods utilizing cyanidation, froth flotation, heap or vat leaching and mercury amalgamation. Such discharges were not authorized under the May 31, 1994 permit.

3. Limitations on Coverage

Certain streams and stream reaches in Alaska have been designated as Wild & Scenic Rivers or are located in State Parks, National Parks and Preserves, National Monuments, National Conservation Areas, National Wildlife Refuges and National Wildlife Areas. Under the proposed modification, this permit would not apply to facilities discharging to these special use waters.

For mining wastewaters discharged to these special use waters, the Agency has determined that it lacks sufficient

information to assure that compliance with this modified general permit would also assure compliance with applicable legal requirements. Such discharges may be authorized under a future general permit or under an individual permit.

Like the May 31 1994 permit, this modified permit would not relieve a permittee of the requirements of other applicable federal, state or local laws; permittees should contact the appropriate state or federal agencies to inquire about additional permits that may be required.

Additional requirements may be imposed by the Alaska Department of Fish and Game in resident and anadromous fish streams. Also, "The Atlas to the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fish" lists the streams in the State which require a Habitat permit from the Alaska Department of Fish and Game.

4. Individual Permits

Owners or operators authorized by a general permit may be excepted from coverage by a general permit by applying to the Director of the NPDES program for an individual permit. This request may be made by submitting an NPDES permit application, together with supporting documentation for the request no later than 90 days after publication by EPA of the final general permit in the Federal Register, or 180 days prior to the commencement of operation of a new source or new discharger. EPA also intends to give appropriate priority to those dischargers who would no longer be covered under the general permit as a result of the proposed changes. Specifically, permittees discharging to special use waters, including the Forty-Mile River, suction dredge permittees with intake hoses greater than 8 inches, and hydraulickers would be given appropriate priority in the individual permit process provided they make prompt application for such coverage.

Finally, EPA intends to give appropriate priority to those dischargers who wish to receive a site-specific turbidity limit based on a different approach than that proposed in the modified general permit. These dischargers must provide sufficient information to EPA to establish either that (1) their effluent does not exceed water quality criteria for metals other than arsenic or (2) the natural background level of turbidity of the receiving water is greater than zero. Sufficient information means analytical monitoring data that reflects at least three samples taken over the period of

not less than three weeks. (A detailed explanation of the proposed modified general permit's approach to turbidity including its relationship to metals may be found at part III. C. of this fact sheet.)

The Director may require any person authorized by the modified general permit to apply for and obtain an individual permit, or any interested person may petition the Director to take this action. The Director may consider the issuance of individual permits when:

- a. The single discharge or the cumulative number of discharges is/are a significant contributor of pollution;
- b. The discharger is not in compliance with the terms and conditions of the general permit;
- c. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
- d. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
- e. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
- f. The requirements listed in the previous paragraphs are not met.

C. Description of the Industry

Placer mining involves the mining and extraction of gold or other heavy metals and minerals primarily from alluvial deposits. These deposits may be in existing stream beds or ancient, often buried, stream deposits, *i.e.* paleo or fossil placers. Many Alaskan placer deposits consist of unconsolidated clay, sand, gravel, cobble and boulders that contain very small amounts of native gold or other precious metals. Most are stream deposits and occur along present stream valleys or on benches or terraces above existing streams. Beach placer deposits have been and continue to be important producers in Alaska. These deposits, most notable near Nome, include both submerged and elevated beach placer deposits.

Essential components of placer mining include overburden removal, mining of the gold placer gravels, and processing (gold recovery).

1. Overburden Removal

Various types of overburden include barren alluvial gravels, broken slide rock, or glacial deposits. In some parts of Alaska the pay gravels are overlaid by silty, organic-rich deposits of barren, frozen material generally comprised of wind-blown particles (loess). Particularly high ice content is common. Most facilities utilize mechanical methods for removal of overburden

because they generally use the same excavating equipment for mining.

Overburden can also be removed by hydrauliclicking. Hydrauliclicking consists of the loosening of material by water delivered under pressure through a hydraulic giant (monitor). This general permit does not authorize discharges from operations that use hydrauliclicking to remove overburden. Such discharges would be considered through the individual permit process.

2. Mining Methods

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

Open-cut methods commonly used in Alaska involve the use of bulldozers to remove overburden, push pay dirt to sluicboxes, stack tailing and construct ditches ponds and roads. At some sites, loaders are used to move material.

3. Processing Methods

A large percentage of the present gold placer mining operations use some type of sluice box to perform the primary processing function, beneficiation. An increasing number of jig plants are also being used at open-cut mines. Many operations make use of feed size classification which involves the physical separation of large rocks and boulders from smaller materials such as gravel and sand. The object of classification is to prevent the processing of large-sized material which is unlikely to contain gold values. Commonly used classification equipment includes: grizzlies, trommels and static or vibrating screens. The most common gold recovery method is sluicing. A sluice is a long, sloped trough into which water is directed to effectuate separation of gold from ore. A slurry of water and ore flows down the sluice and the gold, due to its relatively high density, is trapped in riffles along the sluice.

II. Effluent Characteristics

Discharges from placer mining operations consist of water and the naturally occurring materials found in the alluvial deposits (e.g. sand, silt, clay, trace minerals and metals, etc.). Some of the elements measured in placer mine effluent are derived principally from sulfide, oxide, carbonate, and silicate mineral species, and may include antimony, arsenic, cadmium, copper, iron, lead, mercury, nickel, silver, and zinc. Most of these parameters have been found in trace amounts in discharges from some mines.

Based on review of available scientific literature, sampling data collected by EPA and the Alaska Water Quality Standards (WQS), EPA has concluded that the pollutants of primary concern are settleable solids, turbidity, and arsenic. Arsenic is the primary metal of concern due to its potential toxicity and its naturally occurring abundance in most Alaskan soils, which may be discharged to Alaskan waters along with other mining wastes.

III. Basis for Effluent Limitations on Mechanical Operations

A. Background

The Clean Water Act requires that NPDES permits establish effluent limitations to assure compliance with technology-based control standards and with State water quality standards. Technology-based limitations represent the degree of pollutant reduction that can be economically achieved by using various levels of pollution control technology. In accordance with Section 301(b)(1)(C) of the CWA, NPDES permits must also assure compliance with any more stringent limitations, particularly those necessary to meet State water quality standards. The NPDES regulations at 40 CFR 122.44(d) requires NPDES permits to include conditions to "(a)chieve water quality standards established under § 303 of the Clean Water Act."

B. Technology-Based Limitations

Effluent limits required in this permit for the control of pollutants are published in 40 CFR Part 440 Subpart M (Gold Placer Mine Subcategory), which was published at 53 FR 18764 (May 24, 1988). These limits apply only to a certain category of mechanical placer mining operations. Additional information regarding the basis for establishing the effluent limits is summarized in the EPA publication titled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point

Source Category—Gold Placer Mine Subcategory" (May 1988) ("Development Document").

The Subpart M regulations establish effluent limitations guidelines and standards based on the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), and new source performance standards (NSPS) based on the best available demonstrated technology. The BAT limitations and NSPS represent the level of treatment required for all placer mining operations covered under 40 CFR Part 440 Subpart M. Subpart M also mandates specific best management practices (BMPs).

The limitations and standards established under Subpart M were derived based on the use of settling ponds and total recirculation of process wastewater. Subpart M allows a mine to discharge incidental water that enters the mine site through infiltration, drainage and mine drainage (including waters entering the mine through precipitation, snow melt, drainage water, ground water infiltration and the melting of permafrost) provided that three conditions are met: (1) the incidental waters have commingled with process waters, (2) the volume of the discharge is no greater than the volume of infiltration, drainage and mine drainage waters that is in excess of the make-up water required for operation of the beneficiation process, and (3) the concentration of settleable solids in the discharged water does not exceed the effluent limitations specified below.

For the purpose of this permit, discharged wastewater consists of incidental waters commingled with process waters used to move the ore to and through the beneficiation process, water used to aid in classification, and water used in gravity separation. Subpart M imposes the following effluent limitations:

a. The concentration of settleable solids in wastewater discharged from an open-cut mine plant or a dredge plant site must not exceed an instantaneous maximum of 0.2 ml/l.

b. The volume of wastewater which may be discharged from an open-cut mine plant or dredge plant site must not exceed the volume of infiltration, drainage and mine drainage waters which is in excess of the make-up water required for operation of the beneficiation process.

These technology-based requirements are specified in Parts II.A.1.a. and b. of the proposed permit.

Part II.A.2. of the proposed permit prohibits the discharge of any

wastewater during periods when new water is allowed to enter the plant site. It is required to assure compliance with the technology-based requirements established in Part II.A.1.a. of the proposed permit.

C. Water Quality Based Limitations

1. Introduction

In addition to the technology-based effluent limitations, the permit includes effluent limitations which are required to ensure compliance with WQS (Title 18, Chapter 70 of the Alaska Administrative Code).

These standards vary with the beneficial use they are established to protect. In water bodies with more than one designated beneficial use, the more restrictive criteria apply. The WQS protect most fresh water sources for use in drinking, agriculture, aquaculture and industrial water supply, contact and secondary recreation, and the growth and propagation of fish, shellfish, and other aquatic life (18 AAC 70.050). This permit will protect all the above uses.

The WQS also authorize the State to approve mixing zones. 18 AAC 70.032(a) states in part that "(i)n applying the water quality criteria set out in this chapter, the department will, upon application and in its discretion, prescribe in a permit or certification a mixing zone." A mixing zone is the volume of water, adjacent to a discharge, in which wastes discharged mix with the receiving water, and within which the water quality criteria set forth in 18 AAC 70.020 may be exceeded. 18 AAC 70.032 sets forth the method for determining whether a mixing zone is appropriate and, if so, the appropriate size of a mixing zone. Where a mixing zone is authorized, WQS must be achieved at the edge on the mixing zone, known also as the zone of initial dilution ("ZID").

2. Alaska Water Quality Standards

EPA has evaluated the following WQS in determining appropriate permit limits:

a. Turbidity. According to the WQS, the most protective turbidity criteria applies to fresh water sources classified for use as drinking water and contact recreation uses. These criteria, which are set forth in 18 AAC 70.020(b), state that turbidity "(m)ay not exceed 5 nephelometric turbidity units (NTU) above natural conditions when the natural turbidity is 50 NTU or less; and more than 10% increase in turbidity when the natural condition is more than 50 NTU, not to exceed a maximum increase of 25 NTU."

b. Sediment. The most protective sediment criterion applies to fresh water

sources classified for use as drinking water. This criterion is a narrative standard requires "(n)o measurable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone method." The lowest measurable value of settleable solids using an Imhoff cone is 0.2 ml/l.

c. Metals. Under Alaska WQS, metals constitute "Toxic and Other Deleterious Organic and Inorganic Substances." The most restrictive metals criterion is that which applies to fresh water used for the growth and propagation of fish, shellfish, and other aquatic life and wildlife. See 18 AAC 70.020 (1995). That criterion prohibits individual substances from exceeding the EPA Quality Criteria for Water or, if those criteria do not exist, the Primary Maximum Contaminant Levels of the Alaska Drinking Water Standards. Under this criterion, even more stringent limits may be imposed where ADEC finds that the limits are not appropriate for sensitive resident Alaska species.

(1) *Metals Other Than Arsenic.* Under the proposed modifications, metals other than arsenic are regulated through permit limitations on settleable solids and turbidity. EPA has determined that any metals present in raw placer mining wastewater are associated with the solids in that wastewater. Development Document at 98. By meeting the settleable solids limitation of 0.2 ml/l, a miner will have removed almost all of the metals that might otherwise be present in placer mining effluent.

However, the concentration of remaining metals still might exceed the metals criteria. Because the remaining metals are associated with solids, the permit's limitations on turbidity—which EPA believes in placer mining effluent is almost wholly composed of solids that have not settled—will control any remaining metals that might be in the effluent.

(2) *Arsenic.* EPA has concluded, based on available sampling data, that arsenic is commonly associated with placer mining wastes. Development Document at 118, 131. Locally, it is the most abundant toxic metal present. Additionally, although several studies by EPA have indicated a reduction in levels of arsenic in placer mining effluent as a result of reducing settleable solids to 0.2 ml/l, EPA has concluded that these reduced levels of arsenic are not consistently adequate to achieve WQS. Development Document at 118, 131.

3. Limitations

Based on review of the WQS and available data, EPA proposes that the modified general permit would contain limitations on flow, turbidity, settleable solids and arsenic in order to meet the WQS of concern.

a. Flow and Turbidity. Because metals other than arsenic are strongly associated with solids, the technology-based limits on settleable solids and on the volume of wastewater discharged—which effectively require the use of settling ponds—greatly reduce metals. EPA believes additional WQS-based limits on turbidity assure compliance with the metals criteria. Placer mining effluent turbidity is almost entirely caused by those solids that have not settled. Thus, turbidity is an indicator of solids, and therefore it is an indicator of metals too. The turbidity limit thus is not only necessary to achieve the WQS for turbidity but also to achieve the WQS for metals other than arsenic.

For purposes of the general permit, the maximum turbidity limit of the effluent is that which would result in a level of turbidity, after mixing, that does not exceed 5 NTU above background.

The State of Alaska has agreed, as part of its certification of individual NOIs, to consider modifying the turbidity limitation to account for the dilution effects of the receiving stream. The applicant would provide with the NOI sufficient information demonstrating that the dilution effect of the receiving water justifies a less stringent limit and disclosing effluent flow. The necessary dilution information may be provided, as it has in past years, by the permittee or by the Alaska Department of Natural Resources (ADNR). Where the applicant does not provide the site-specific information sufficient to justify a less stringent turbidity limit, coverage under the modified general permit would be granted with a turbidity limit of 5 NTU above natural background.

The proposed modification would make three changes that better ensure that site-specific turbidity limits achieve WQS for metals other than arsenic. First, the modified general permit condition would be based on the assumption that the naturally occurring turbidity level is 0 NTU. This assumption is based on the fact that most Alaska waters upon which placer mining is conducted have either no or very low levels of naturally occurring turbidity.

Second, the flow estimate that the permittee traditionally has provided—and which is used to calculate site-specific turbidity limits—would be included in the permit as a limit. This

would foster accurate assessment of flows and thereby ensure appropriate turbidity limits because applicants who might otherwise tend to underestimate flows, and thereby get a higher turbidity limit, will now have a strong incentive to estimate flows accurately. On the other hand, those who inadvertently underestimate flows can, by undertaking additional turbidity monitoring, negate the presumption that a flow exceedance was resulted in a permit violation. So long as a miner takes a turbidity sample that demonstrates compliance with the turbidity limit, any flow exceedance will not be considered a permit violation.

Third, the turbidity limit would be based on a more conservative low-flow projection based on the thirty day, ten-year low flow (30Q10). This low-flow projection is more conservative than would be required were turbidity not being used as part of the permit's regime to comply with WQS for metals other than arsenic. That is, 30Q10 is proposed in recognition of the potential for placer mining effluent to include toxic metals. Under the Alaska WQS, if the turbidity limitation were not a means for implementing WQS for toxics, the less stringent three-day, ten-year low flow (3Q2) would be the proposed low flow. (On the other hand, a more stringent assumed low flow based on seven-day, ten-year low flow (7Q10) would be utilized in accordance with the Alaska WQS if placer mining effluent were known to contain toxic pollutants.

(A miner who seeks higher turbidity limits than would result under application of the formula would have to apply for an individual permit and would have to include information that demonstrates that the above considerations do not be apply to his or her location. For example, a miner may obtain a higher turbidity limit if he or she could demonstrate in an individual permit application that turbidity natural background is above zero or that metals are not present in the mining effluent.)

The procedures that the State has indicated it would use to calculate a turbidity limit under the general permit are substantially the same as those used in the individual placer mining permits issued since 1986. The proposed turbidity limit is based on utilizing a mass balance equation which relates receiving water flow and turbidity to effluent flow and turbidity. The basic form of this equation is:

$$Q_1 C_1 = Q_2 C_2,$$

where

C_1 = effluent turbidity ;

C_2 = receiving water downstream turbidity after mixing where the allowable increase is 5 NTU above background (i.e. 5 NTU);

Q_1 = effluent flow and,

Q_2 = total receiving water flow downstream from discharge after complete mixing (i.e. 30Q10).

This formula differs from that used previously in two respects. First, as discussed above, it assumes a background turbidity of zero. The formula used in the May 31, 1994 permit was:

$$Q_1 C_1 + Q_2 C_2 = Q_3 C_3$$

where Q_1 represented receiving water flow upstream of the discharge and C_1 represented the receiving water turbidity upstream of the discharge. Because the modified general permit would assume that the upstream turbidity is zero, $Q_1 C_1$ in the previous formula falls out of this equation, and thus, the two equations are the same. Authorization under the proposed modified general permit would only be available based on the zero background turbidity assumption. Second, under this formula no default effluent flow will be utilized. A miner who submits an NOI for zero discharge will not be eligible to receive a site-specific turbidity limit.

The necessary information to determine the appropriate turbidity limit for the facility is the effluent and receiving water flow values. Receiving water flow values can be obtained from the ADNR, Division of Mining, upon request by the permittee. ADNR methodology for determining upstream flow uses equations developed by Ashton and Carlson (1984). The maximum effluent discharge flow must be estimated by the permittee and must account for the effects of all excess incidental waters.

Discharges requesting turbidity limits that account for effluent and receiving water flow rates would need to submit the necessary information to EPA with the NOI. This would apply to all dischargers, including those who have submitted this type of information in the past, in order to assure that all site-specific information is up-to-date. EPA would forward this information to the Alaska Department of Environmental Conservation.

b. Settleable Solids. The settleable solids limitation would serve both as a technology-based limitation and as a WQS-based limitation. The most conservative WQS standard for sediment is defined in terms of settleable solids as measured using an Imhoff Cone. The Imhoff Cone does not reliably quantify settleable solids at

levels below 0.2 ml/l which is also the technology-based limit for placer mines. Thus, the permit's technology-based limit also would implement the WQS for sediment.

As mentioned above, compliance with the settleable solids limitation, also would greatly assist, if it would not alone ensure, compliance with WQS for metals. The vast majority of whatever metals are present in placer miner wastewater would be removed where the discharge meets the settleable solids limitation. Development Document at 98.

c. Arsenic. In establishing the arsenic limit, EPA proposes to rely on the "Amendments to the Water Quality Standards Regulation; Compliance with CWA Section 303(c)(2)(B) ("Amendments") (57 FR 6084). This rulemaking promulgated the chemical-specific numeric criteria for priority toxic pollutants necessary to bring all States into compliance with the requirements of the CWA Section 303(c)(2)(B). The primary focus of the rule is the inclusion of the federal water quality criteria for pollutant(s) in State standards as necessary to support water quality-based control programs (e.g. NPDES permits). Thus, the existing federal standard of 0.18 µg/l total recoverable arsenic is applicable to Alaska and this number has been used to determine the end-of-pipe limitation for the draft permit.

The arsenic criterion in the Amendments is currently under consideration for revision. If the current arsenic criterion has been stayed by EPA prior to final issuance of the modified general permit and no new or interim criterion has been promulgated, EPA intends, consistent with the Alaska Water Quality Standards, to include in the final permit an arsenic limit of 50 µg/l total arsenic which is the Alaska Drinking Water Standard for arsenic. If the current criterion is stayed and EPA issues a new or interim criterion that is less stringent than the State standard, EPA likewise will include the State standard. Alternatively, if the new or interim EPA-issued criterion were more stringent than the State standard, it would be included.

While Mixing zones are allowed under the Alaska standards for some pollutant discharges, under 18 AAC 70.032(a)(1) the State will not authorize a mixing zone if "pollutants discharged could be expected to cause carcinogenic, mutagenic, or teratogenic effects on biota or human health" and result in a significant human health risk.

EPA is not proposing a mixing zone for arsenic but would include a method for determining a mixing zone in the

permit if the Department determines that such a mixing zone is appropriate and is in compliance with WQS.

The proposed general permit does not address circumstances where natural background exceeds criteria. Miners seeking to discharge arsenic at levels up to natural background must apply for individual permits. They must also obtain from ADEC a limit based on natural background in accordance with the provisions of 18 AAC 70.025.

IV. Best Management Practices (BMPs)

Section 402(a)(2) authorizes EPA to include miscellaneous requirements in permits on a case-by-case basis which are deemed necessary to carry out the provisions of the Act. BMPs are practices designed to control or abate the discharge of pollutants.

A. BMP conditions in Permit Parts III.A.1. to III.A.5. of the proposed permit were developed pursuant to Section 304(e) of the CWA. These BMPs are established in 40 CFR 440.148 and are necessary for control and treatment of the drainage and infiltration water at gold placer mines and to prevent solids and toxic metals from being released to the receiving streams.

1. The intent of Permit Part III.A.1. is to avoid contamination of nonprocess water, reduce the volume of water requiring treatment and maximize the retention time and the settling capacity of the settling ponds. The diversion would be required to totally circumvent any gold recovery units, treatment facilities, etc. Any mine drainage sources that pass through the actual mining area and are subject to transporting pollutants would be required to be treated prior to discharge.

2. Permit Part III.A.2. is intended to assure that water retention devices are constructed appropriately. This may be achieved by utilizing on-site material in a manner that the fine sealing material (such as clays) are mixed in the berms with coarser materials. Berms should be toed into the underlying earth, constructed in layers or lifts and each layer thoroughly compacted to ensure mechanical and watertight integrity of the berms. Other impermeable material such as plastic sheets or membranes may be used inside the berms when sealing fines are unavailable or in short supply. The side slope of berms should not be greater than the natural angle of repose of the materials used in the berms or a slope of 2:1, whichever is flatter.

3. The intent of Permit Part III.A.3 is to ensure that the investment in pollution control results in the maximum benefit in terms of reduced pollutant volumes reaching water of the

United States. These measures may include location of the storage ponds and storage areas to assure that they will not be washed out by reasonably predictable flooding or by the return of a relocated stream to its original stream bed. Materials removed from settling ponds should be placed in bermed areas where liquids from the materials cannot flow overland to waters of the United States. It may be necessary, in some cases, to collect such liquids and pump or divert them back to the settling pond for treatment. This requirement applies both during the active mining season and at all other times until reclamation is completed.

4. Permit Part III.A.4. is intended to assure that the amount of wastewater that is discharged is kept to a minimum.

5. The provisions of Permit Part III.A.5. would ensure that water control devices are adequately maintained. This specifies that structures should be inspected on a regular basis for any signs of structural weakness or incipient failure. Whenever such weakness or incipient failure becomes evident, repair or augmentation of the structure to reasonably ensure against catastrophic failure shall be made immediately.

B. Pursuant to CWA Section 402(a)(2) (40 CFR 122.44(k)(3)), additional BMPs are being proposed; these practices are reasonably necessary either to achieve effluent limitations or to carry out the Clean Water Act's goals of eliminating the discharge of pollutants as much as practicable and to maintain water quality which provides for the protection and propagation of fish among other uses.

In addition, the BMPs in Permit Part III.B. would apply to all suction dredges covered by the modified permit. Suction dredges' unique method of intake and displacement present unusual permitting issues. They operate on the surface of flowing streams and rivers, only remove material from stream bottoms, and process and quickly return mined material to the stream bottom. For these reasons EPA has determined that numeric effluent limitations are not necessary. Instead, the BMPs in part III.B. of the permit have been developed. These BMPs, which are supplemented by required turbidity monitoring designed to ensure that the BMPs are being implemented properly, are, in this unique circumstance, sufficient to implement the requirements of the CWA. That is, these practices would ensure that the beneficial uses designated by the state, chiefly the growth and propagation of fish and other aquatic life, are adequately protected and justify the absence of

more stringent technology and water-quality based effluent limitations.

1. Permit Part III.A.6. would require reasonable steps be taken to ensure that pollutants are not discharged after close of the mining season. Any discharge of pollutants from the mine area to waters of the United States, even when it is not being operated, in excess of permit limits would constitute a violation of the Clean Water Act.

2. Permit Part III.A.7. would require that a minimum separation distance be maintained between mine discharge points. Separation is intended to prevent the creation of extended overlapping discharge plumes and thereby ensure unimpaired fish habitat zones exist between discharge points. Solids associated with the effluent from mechanical operations effluent downstream and settles downstream among gravel and rocks in the streambed. Too much silt and sand make it difficult for the salmon to dig suitable gravel nests (redds) and can also smother fish eggs already deposited. An applicant who would face difficulty complying with this BMP may submit an application for an individual permit.

3. Permit Part III.B.1. would require that dredging occur only in the active stream channel except where the mining the active channel would contribute to erosion of stream banks. Mining the active stream channel generally should result in dredging spoils that are relatively clean and should cause minimum turbidity when returned to the stream. The material that runs through a suction dredge flows downstream and settles among gravel and rocks in the streambed. As mentioned above, too much silt and sand make it difficult for the salmon to dig suitable gravel nests (redds) and can also smother fish eggs already deposited.

4. Wherever practicable, Permit Part III.B.2. requires that dredge be set to discharge into a quiet pool where settling of dredge spoils can occur more rapidly. This should minimize in-stream turbidity to the general area of the dredging activity.

5. Permit Part III.B.3. would prohibit dredging within 500 feet of any location where the miner knows fish spawn or have left eggs. This BMP also is intended to protect the waters for propagation of fish. The greatest single effect a suction dredge has on the environment is the danger it poses to fish. The dredge pump forces water and gravel through the nozzle and hose. Fish eggs taken up with gravel cannot survive the shock, pressure, and battering and pounding that comes with

moving through the hose and sluice. If a fish egg should somehow survive the hose and sluice, the chances for being buried in the gravel at the right depth and in the correct gravel composition necessary for incubation are nonexistent.

This BMP also would require miners to inform themselves of these locations where fish eggs may exist. In addition to consulting the regional office of the Alaska Department of Fish and Game (ADF&G), miners may consult "The Atlas to the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fish," which lists the streams in the State which require a Habitat permit from the ADF&G. This catalog is quite extensive but is available for viewing at many agencies including Alaska Department of Fish and Game, U.S. Fish and Wildlife Service, the National Marine Fisheries Service and the Anchorage Operations Office of EPA.

6. Likewise Permit Part III.B.4 would protect conditions in the receiving water for the benefit of fish. Moving obstructions may cause turbidity in excess of WQS. Instream obstructions also serve important habitat purposes.

7. Permit Part III.B.5. would protect against an unnecessary and unpermitted discharge of turbidity.

8. Permit Part III.B.6., like Permit Part III.A.7., would ensure that turbidity will not impair fish habitat for long stretches of water where mining operations are in close proximity to one another.

9. Permit Part III.B.7. emphasizes the Permit Part III.B.1. The active stream channel is characterized by the absence of clay and silt. Dredging activity in clay and silt can result in turbidity plumes greatly in excess of the 500 foot limitation proposed in the general permit.

10. The purpose of Permit Part III.B.8. would be to control the potential discharge of pollutants, resulting from fuel spills, from entering receiving waters.

Basis for Monitoring and Reporting Requirements

Monitoring

All self-monitoring requirements were developed in consideration of the remoteness of the mining operations, the magnitude of the pollutants discharged, and the practicability of maintaining a valid quality assurance program.

Monitoring provisions for turbidity, arsenic, settleable solids, and flow (in Part II.C.) are included in the proposed modified general permit. These provisions explain how, when, and where to collect such samples.

EPA has prepared a daily checklist as an attachment to the proposed modified general permit. Permittees would be required to maintain a record of the information required by part II.C.1.b of the permit. The attached checklist may be utilized to assist permittees in ensuring compliance with that part. All compliance records would have to be maintained for three years in accordance with part IV. of the permit. In accordance with Section 308 of the Clean Water Act, EPA may require that such records be submitted to the agency. EPA intends to make information requests in accordance with Section 308 when reasonably requested by members of the public.

Daily Monitoring

a. Mechanical Operations. (1) For mechanical operations, the measurement of settleable solids is an indication of overall treatment efficiency. The modified general permit would require monitoring for settleable solids once per day during periods of discharge. If there is a discharge to waters of the United States, permittees would be required to sample for settleable solids on a daily basis, even if sluicing does not occur, because the operator is responsible at all times for the condition of the wastewater entering the receiving stream. Also, the results from settleable solids sampling can give the operator an immediate indication of the overall effectiveness of the treatment system and thus allow advanced planning for treatment system maintenance.

(2) Daily effluent flow monitoring also would be required in the proposed modified general permit. This requirement would provide data for determining compliance with turbidity limits derived using mixing zones and would allow EPA to assess the pollutant loading discharged into the receiving water. On days when flow exceeds permit limits, a permittee may take a turbidity sample. So long as turbidity remains within permit limits, flow exceedances will not be considered to be permit violations.

(3) The daily visual inspection provision in Part II.D.1. of the proposed modified general permit would be required to assure against discharges resulting from structural failure of berms, dikes, dams and other water control structures. A visual inspection is an effective tool for assuring proper operation and maintenance.

b. Suction Dredging. The modified permit would require daily visual inspection of the area downstream of the suction dredge during operation. If turbidity is observed beyond 500 feet

downstream, the permittee would be required to modify its operations to meet the permit limitation. If the operations could not be modified to meet the limit, the operation would not be authorized.

This requirement is based on research published in the scientific literature (Griffith and Andrews 1981, Hassler et al. 1986, Harvey 1986, Huber and Blanchet 1992, Thomas 1985) and on monitoring done by Alaska Department of Environmental Conservation (ADEC) (Ron McAllister, ADEC, personal communication). In most cases, water quality recovered rapidly below the dredge. The daily visual inspection during operation, combined with the BMPs in part III.B. of the permit should assure that the water quality standards are met.

2. Seasonal Monitoring—Turbidity and Arsenic

Permittees would be required to monitor for turbidity and arsenic once for each calendar month in which there is a discharge and at least three times per season. The permittee should space sampling as evenly throughout the mining season as possible. If the permittee has fewer than three discharges per season, the permittee would be required to sample each discharge. If the permittee has fewer than three discharges per season, the permittee should take samples of each discharge.

For permittees who have not obtained a site-specific turbidity limit under part II.A.1.c. of the permit, background samples for turbidity, taken immediately upstream of the effluent discharge point, would be required. Effluent turbidity samples would also be required. For permittees who did obtain a site-specific limit, only samples of the effluent would be required.

Samples for monitoring purposes would be required to be taken during sluicing or discharge at a time when the operation has reached equilibrium. For example, samples should be taken when sluice paydirt loading and effluent discharge are fairly constant.

B. Reporting

The following reporting requirements apply to all permittees with the exception of suction dredges with intake hoses of four inches or less.

1. Reporting of effluent violations would be required in writing within a reasonable time period. The information required by Attachment A must be included. This is found in Permit Part IV.G.

2. Reporting of visual violations from suction dredges would be required in

writing within a reasonable time period. This is found in Permit Part IV.G.

3. The results of all monitoring or notice that no discharge or no mining would be reported to EPA by November 30 of each year. This is found in Permit Part IV.B.

4. Reporting of the results of arsenic monitoring: As a result of the increasing use of water quality-based effluent limits (WQBEL) in NPDES permits, a number of permits now contain limits that fall below the capability of current analytical technology to detect and/or quantify specific parameters. EPA's draft "National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantification levels" (March 1994) outlines objectives for achieving consistency in establishing permit pollutant limitations for pollutants that are set below detection levels, taking into consideration the capabilities and uncertainties of currently available analytical methodologies.

EPA's guidance specifies that, regardless of the ability to measure to the level of the WQBEL, the value provided for the maximum and average effluent limits in the permit should be expressed as the calculated WQBELs. The inability to measure to the necessary level of detection is addressed by establishing the Minimum Level (ML¹) as the quantification level for use in laboratory analysis and for reporting Discharge Monitoring Report (DMR) data for compliance evaluations. In the absence of promulgated MLs, Interim MLs should be used. EPA believes that Interim ML values can be derived most effectively as a multiple of the existing Method Detection Limit (MDL) value for a given analyte. The Interim ML is approximated by 3.18 times the published MDL. The Interim ML is then rounded to the nearest whole number for the metal analyte and corresponding specific analytical method approved under Section 304(h). In some cases, MDLs for several metals have not been established. When neither the ML nor the MDL is available, 3.18 times the best

estimate of the detection level should be used.

The discharge of arsenic in excess of the effluent limit is not authorized by this permit. Because the water quality based effluent limit for arsenic (.18 µg/l) is below the MDL of 1 µg/l using EPA Method 206.2, EPA has derived an interim minimum level of 3 µg/l (3.18×1 µg/l=3.18 rounded to 3) as the quantifiable level. EPA intends to consider using enforcement discretion with regard to arsenic discharges reported below the quantifiable level. For purposes of reporting analytical results for arsenic in the DMR, results below the MDL will be reported as "less than 1 µg/l". Actual analytical results shall be reported on the DMR when the results are greater than the MDL. The permittee must also specify in the comment column of the DMR that Method 206.2 was used for analysis.

VI. Other Requirements

A. Spill Prevention Control and Containment (SPCC) Plan

Part III.C. of the proposed modified general permit was established in accordance with Part 40 CFR 122.44(k)(3). The purpose of this requirement would be to control the potential discharge of pollutants, resulting from fuel spills, from entering receiving waters.

B. Endangered Species

The U.S. Fish and Wildlife Service (FWS) previously provided EPA with a species list for the state of Alaska. The recommended protection measures for the species of concern during the nesting period prohibits alterations of limited, high quality habitat which could detrimentally and significantly reduce prey availability. Because the proposed modified general permit is written to protect aquatic life or human health criteria (whichever is more stringent), EPA previously determined that no alterations of habitat due to water discharges authorized by this permit should occur. Because of this, EPA has determined that formal consultation for Section 7 of the Endangered Species Act is not necessary for existing facilities. EPA will provide FWS with copies of the proposed modified general permit for concurrence.

Environmental Assessments would be completed for each new source discharge as is stated in Part I.A.3. of the modified general permit. Any consultation necessary to comply with the Endangered Species Act would be performed at the time the

Environmental Assessment is submitted.

C. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities by these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The information collection requirements of the proposed modified general permit have already been approved by the Office of Management and Budget under the submissions made for the NPDES permit program under the provisions of the Clean Water Act.

VII. Storm Exemption

Part III.D. of the proposed permit would establish a storm exemption provision to authorize exceedances of technology-based effluent limitations and standards in the permit so long as the permittee meets certain design and operational criteria. This provision reflects regulations in 40 CFR 440.141(b).

This provision would allow for the unavoidable exceedance of technology-based effluent limitations during storms of intensity greater than or equal to a 5-year, 6-hour storm event. The storm exemption will be allowed provided that (1) the settling ponds are designed, constructed, and maintained to contain the volume of process water generated during four hours of normal operation plus the drainage water resulting from a 5-year, 6-hour storm event, (2) the operator takes all reasonable steps possible to maintain treatment of the wastewater and minimize overflow from the settling ponds, (3) the permittee complies with the BMPs in Part III.A.1.-.5 of the proposed permit, and (4) the operator complies with all the notification requirements for bypasses and upsets as established in Parts III.G. and H. of the proposed permit. Part III.D. of the proposed permit establishes the specific conditions which must be met in order to be eligible for the storm exemption.

This exemption is designed to provide an affirmative defense to an enforcement action. Therefore, the operator has the burden of demonstrating to the appropriate authority that the above conditions have been met.

VIII. New Source Performance Standards (NSPS)

Pursuant to Section 301 of the CWA, NSPS [40 CFR 440.144] were promulgated for gold placer mine facilities. NSPS apply to new mines determined to be new sources by virtue of their activities occurring after

¹ Quantification of measurements below the ML are not acceptable since it requires extrapolation of calibration data to a level below the range of data used to make the original calibration. For a detailed description of these terms, definitions, and interim measures, please refer to EPA's Technical Support Document for Water Quality-Based Toxics Control, March 1991, page 111, and the draft "National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantification levels" (March 3, 1994).

promulgation of the rule (May 24, 1988). The NSPS for gold placer mining facilities are based on the same treatment technology as BAT, which consists of simple settling plus recirculation of all process water. BAT is based on the best demonstrated technology that is available for treating gold placer mine wastewater, those mines which are new sources will not be subject to controls more stringent than those applicable to existing mines.

In accordance with Section 511(c)(1) of the CWA, NPDES permits for new sources are subject to the provisions of the National Environmental Policy Act (NEPA). NEPA requires that, prior to the issuance of an NPDES permit to a new source facility, an Environmental Assessment (EA) must be prepared to determine the potential for any significant impacts on the quality of the human environment resulting from operation of the new source. Permit part I.E.1. would require that new facilities submit a notice of intent by January 1 of the year of discharge. This will allow adequate time to complete EAs for each new source prior to the mining season. If the EA indicates that significant adverse environmental impacts may occur, then the applicant would be required to prepare an Environmental Impact Statement (EIS). However, if the EA indicates that significant impacts are not anticipated, a Finding of No Significant Impact (FNSI) would be issued and the facility would be covered by the general permit. The FNSI may be based, in part, on required permit conditions or mitigation measures necessary to make the recommended alternative environmentally acceptable.

IX. State Certification

Section 301(b)(1)(C) of the Act requires that an NPDES permit contain conditions which ensure compliance with applicable State water quality standards or limitations. The limitations for turbidity were established based to implement WQS. Section 401 requires that States certify that Federally issued permits are in compliance with State law. No permits can be issued until the requirements of Section 401 are satisfied.

The modified general permit would apply to operations discharging to waters of the State of Alaska. EPA is requesting State officials review and provide appropriate certification to these draft permits pursuant to 40 CFR 124.53.

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.* and its implementing regulations [15 CFR Part 930] requires that any federally licensed activity affecting the coastal zone with

an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. EPA is requesting State officials review and make a determination whether the proposed modified general permit are consistent with State policy.

X. References

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Authorization to Discharge Under the National Pollutant Discharge Elimination System For Alaskan Placer Miners

[General Permit No.: AKG-37-0000]

In compliance with the provisions of the Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.*, as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act".

Owners and operators of facilities engaged in the processing of placer gold are authorized to discharge to waters of the United States, in accordance with effluent limitation, monitoring requirements, and other conditions set forth herein.

A Copy of This General Permit Must Be Kept at the Site Where Discharges Occur

[Facility Name]

[Receiving Water]

The original version of this permit became effective June 30, 1994. This permit as modified shall become effective on [date of publication in the Federal Register].

This permit and the authorization to discharge shall expire on June 30, 1999.

Informational Copy Only

Phil Millam, Director, Office of Water, Region 10, U.S. Environmental Protection Agency

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I. Coverage Under This Permit

A. Coverage and Eligibility

1. Existing Facilities (those facilities having individual National Pollutant Discharge Elimination System [NPDES] permits or coverage under the existing Alaska placer miner general permit): Upon the submittal of a Notice of Intent (NOI) to gain coverage under this permit, existing facilities which meet the criteria for coverage under Part I of this permit will be granted coverage according to Permit Part F.4.

2. Pending Applications: Upon submittal of an NOI, all facilities which have submitted applications in accordance with 40 CFR 122.21(a) and which meet the criteria for coverage under this permit will be granted coverage according to Permit Part F.4.

3. New Facilities: New facilities that are determined to be new sources under the CWA will be required to have an Environmental Assessment (EA) completed pursuant to the National Environmental Policy Act (NEPA). A finding of no significant impact (FNSI) by EPA is necessary prior to receiving coverage under this permit. A FNSI will become effective only after the public has had notice of, and an opportunity to comment on, the FNSI including either the accompanying Environmental Assessment or a summary of it, and the EPA has fully considered all public comments submitted, pursuant to 40 C.F.R. § 6.400(d). If there may be a significant impact, the facility will require an Environmental Impact Statement (EIS). An EIS will be issued only after public notice and an opportunity for public comments on a draft EIS pursuant to 40 C.F.R. § 6.403(a) and § 1503.1(a).

4. Expanding Facilities: Facilities that contemplate expanding shall submit a new NOI that describes the new discharge. The current permit will be terminated and a new permit, reflecting the changes, issued in its place if the facility meets all the necessary requirements of coverage.

5. Coastal Zone Facilities: Facilities located in the coastal zone as determined by the Alaska Coastal Zone Management Act shall submit, with their Notice of Intent (NOI), an individual consistency determination from Alaska Division of Governmental Coordination (ADGC) unless ADGC makes an overall determination on this General Permit after its issuance.

B. Authorized Placer Mining Operations

1. Facilities that mine and process gold placer ores using gravity separation methods to recover the gold metal contained in the ore.

a. Open-cut gold placer mines except those open-cut mines that mine less than 1,500 cubic yards of placer ore per mining season.

b. Mechanical dredge gold placer mines (not suction dredges) except those dredges that remove less than 50,000 cubic yards of placer ore per mining season or dredge in open waters.

2. Suction dredges with intake hoses of less than or equal to 8 inches.

C. Additional Requirements

1. Many streams and stream reaches in Alaska have been designated as part of the federal wild and scenic rivers system or as Conservation System Units (CSUs) by the federal government. Permittees should contact the district offices of the federal agencies that administer the designated area for additional restrictions that may apply to operating within the area.

2. Many streams in Alaska where placer mining occurs have been designated by the Alaska Department of Fish and Game (ADF&G) as anadromous fish streams. Placer mining activities in these streams require an ADF&G Fish Habitat Permit which may include additional restrictions. The "Atlas to the Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fish" lists the streams in the State which require prior ADF&G authorization. In addition, placer mining activities in resident fish streams require an ADF&G Fish Habitat Permit if the proposed activity will block or impede the efficient passage of fish. Permittees operating in anadromous or resident fish streams should contact the ADF&G to determine permitting requirements and additional restrictions that may apply.

D. Prohibitions

1. Discharges from the following beneficiation processes are not authorized under this permit: Mercury amalgamation, cyanidation, froth floatation, heap and vat leaching.

2. This general permit does not apply to facilities located or proposed to be located in State Parks, National Parks and Preserves, National Monuments, National Conservation Areas, National Wildlife Refuges, National Wilderness Areas and waters designated under the Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271-1287.

3. Discharges from hydraulicking, as defined in Part VIII.F, are not authorized under this permit.

E. Requiring an Individual Permit

1. The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The single discharge or the cumulative number of discharges is/are a significant contributor of pollution;

b. The discharger is not in compliance with the terms and conditions of the general permit;

c. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;

e. A Water Quality Management plan containing requirements applicable to such point sources is approved; or

f. An Individual Control Strategy (ICS) is required under Section 304(L) of the Act, or

g. A Total Maximum Daily Load (TMDL) and corresponding wasteload allocation has been completed for a waterbody or a segment of a waterbody, or

h. A review of the facility shows that it is subject to the State of Alaska's anti-degradation policy.

i. There are other Federal or State legislation, rules or regulations pertaining to a site directly or indirectly related to water quality.

2. The Regional Administrator will deny coverage under this permit in the following circumstances:

(a) a land management agency submits a request that general permit coverage be denied to EPA within thirty (30) days of the agency's receipt of an NOI; and,

(b) the land management agency's request includes proposed additional or revised permit terms which the requesting agency reasonably believes—based upon evidence attached to or cited in the request—are necessary to protect the natural values of the affected location; and,

(c) the land management agency's request concerns a person who either;

i. seeks to discharge into U.S. waters located in National Recreation Areas, Sanctuaries, or Critical Habitat Areas, or in State Refuges, Preserves, Sanctuaries, Recreation Areas, or Critical Habitat Areas; or,

ii. is in significant noncompliance with the terms and conditions of the most recent applicable NPDES permit; or,

iii. intends to discharge into waters designated as impaired or polluted under the Clean Water Act.

Any person denied coverage under this part must apply for and obtain coverage under either (1) an individual permit, or (2) another applicable watershed-specific general permit. Upon receipt of any such application, EPA will determine whether the permit terms requested by the land management agency should be included in the applicable permit.

3. The Regional Administrator will notify the operator in writing by certified mail that a permit application is required. If an operator fails to submit, in a timely manner, an individual NPDES permit application as required, then any applicability of this

general permit to the individual NPDES Permittee is automatically terminated at the end of the day specified for application submittal.

4. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2C or 2D) with reasons supporting the request to the Regional Administrator no later than 90 days after the effective date of the permit.

5. When an individual NPDES permit is issued to an owner or operator otherwise covered by this permit, the applicability of this permit to the facility is automatically terminated on the effective date of the individual permit.

6. When an individual NPDES permit is denied to an owner or operator otherwise covered by this permit, the Permittee is automatically reinstated under this permit on the date of such denial, unless otherwise specified by the Regional Administrator. A new facility can receive coverage under this general permit by submitting an NOI. See Permit Part I.A.3. for details.

7. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

F. Notification Requirements

1. Owners or operators of facilities authorized by this permit, except suction dredges with intake hoses of less than or equal to 4 inches, shall submit an NOI to be covered by this permit. The information required for a complete NOI is in Appendix A of this permit. Notification must be made:

a. within 90 days of issuance of this permit; or

b. by January 1 of the year of discharge from a new facility or a facility established since 1988 subject to New Source Performance Standards (NSPS) that has not previously been covered by a permit; or

c. 90 days prior to discharge from a new facility not subject to NSPS; or

d. 90 days prior to the expiration of an existing individual permit, or

e. 90 days prior to discharge for any other facilities. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to the operation.

2. The NOI shall be signed by the owner or other signatory authority in

accordance with Permit Part VI.H. (Signatory Requirements), and a copy shall be retained on site in accordance with Permit Part IV.F. (Retention of Records). The address for NOI submission to EPA is: United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WD-134, Seattle, Washington 98101

3. A copy of the NOI must also be sent to:

a. the Alaska Department of Environmental Conservation (ADEC). The address is: Alaska Department of Environmental Conservation, 610 University Avenue, Fairbanks, Alaska 99709 and,

b. the Federal, State, or local agency that manages or owns the land in which the mine is located or proposed to be located. The addresses are:

Anchorage Area

U.S. Department of Interior, Bureau of Land Management, 222 West 7th Avenue, #13, Anchorage, AK 99513-7599

U.S. Department of Interior, Fish and Wildlife Service, 1011 E Tudor Rd., Anchorage, AK 99503

U.S. Department of Interior, National Park Service, 605 West 4th Avenue, Suite 104, Anchorage, AK 99501

Fairbanks Area

State of Alaska, Department of Fish & Game, 1300 College Road, Fairbanks, AK 99701-1599

U.S. Department of Interior, Bureau of Land Management, 1150 University Avenue, Fairbanks, AK 99709

U.S. Department of Interior, Fish and Wildlife Service, 101 12th Avenue, Box 19, Fairbanks, AK 99701

U.S. Department of Interior, National Park Service, 250 Cushman, Suite 1A, Fairbanks, AK 99701

Glennallen Area

U.S. Department of Interior, Bureau of Land Management, P.O. Box 147, Glennallen, AK 99588

U.S. Department of Interior, National Park Service, Wrangell St. Alias, P.O. Box 439, Copper Center, AK 99573

Juneau Area

U.S. Department of Interior, Fish and Wildlife Service, 3000 Vintage Blvd., Suite 201, Juneau, AK 99801

U.S. Department of Interior, National Park Service, P.O. Box 21089, Juneau, AK 99802-1089

Nome Area

U.S. Department of Interior, Bureau of Land Management, P.O. Box 925, Nome, AK 99762

U.S. Department of Interior, National Park Service, P.O. Box 220, Nome, AK 99762

Tok Area

U.S. Department of Interior, Bureau of Land Management, P.O. Box 309, Tok, AK 99780

c. For suction dredges, a copy of the NOI must also be sent to the regional office of the Alaska Department of Fish & Game (ADFG) nearest the location of the dredge. The addresses are:

Anchorage Area, 333 Raspberry Road, Anchorage, AK 99518

Glennallen Area, P.O. Box 47, Glennallen, AK 99588-0047

Juneau Area, P.O. Box 25526, Juneau, AK 99802-5526

Nome Area, Pouch 1148, Nome, AK 99762

Tok Area, P.O. Box 779, Tok, AK 99780

4. A copy of the general permit will be sent to the Permittee, other than Permittees of suction dredges with intake hoses less than or equal to 4 inches, when it is determined that the facility can be granted coverage under this general permit. If it is determined that coverage cannot be granted under this permit, the applicant will be informed of this in writing.

5. The owner or operator of a suction dredge with an intake hose less than or equal to 4 inches and who is authorized by this permit shall submit to EPA at the address in Permit Part I.F.2. a letter of intent to be covered by this permit. The letter shall include the following:

a. the name, address, and telephone number of the owner and operator;

b. the locations (e.g. waterbody name and segment) where, and dates when, the owner or operator intend to operate the suction dredge;

c. a brief description of the suction dredge, including the size of the intake hose; and,

d. a statement that the owner and operator have read the provisions of this permit and intend to comply with the permit provisions that apply. The letter of intent shall be submitted to the EPA no later than three weeks before the owner or operator intends to begin operating the suction dredge.

G. Permit Expiration

This permit will expire on June 30, 1999. For facilities submitting a new NOI 90 days prior to expiration of this general permit, the conditions of the

expired permit continue in force until the effective date of a new permit.

II. Effluent Limitations

A. Mechanical Operation (Traditional Sluicing)

[Not including Suction Dredges]

During the term of this permit, no wastewater discharges are authorized except as specified below.

1. Effluent Limitations.

a. The volume of wastewater which may be discharged shall not exceed the volume of infiltration, drainage and mine drainage waters which is in excess of the make-up water required for operation of the beneficiation process.

b. The wastewater discharged shall not exceed the following:

Effluent characteristic	Instantaneous maximum
Settleable Solids	0.2 ml/l
Turbidity	5 NTUs above natural background*
Arsenic, Total Recoverable.	0.18 ug/l
Effluent Flow	[Flow reported in NOI**]

* Subject to Turbidity Mixing Zone outlined in Permit Part II.A.1.c.

** See Part II.A.1.d. for details.

c. Permittees may request a modified turbidity limit based upon a mixing zone approved by the Alaska Department of Environmental Conservation (ADEC) pursuant to 18 AAC 70.032. EPA will approve a modified turbidity limit proposed by ADEC under this General Permit if the modified limit and resulting mixing zone are consistent with the Clean Water Act, EPA's regulations, and 18 AAC 70.032, and provided that:

i. the modified turbidity limit does not exceed 1500 NTU's;

ii. the modified turbidity limit does not cause turbidity levels to exceed 100 NTU's in at least one-half of the cross-sectional area of resident and anadromous fish migration corridors;

iii. the "point of complete mixing" as referenced in 18 AAC 0.032(d), shall be calculated using (1) the 10 year, 30-day low flow (30Q10) as the chronic criteria design flow for the protection of aquatic life; and (2) zero, as the value for upstream turbidity;

iv. the modified turbidity limit does not result in a mixing zone in an area of anadromous fish spawning or

resident fish spawning redds for the fish species listed in 18 AAC 70.032(d)(3)(D)(ii); and,

v. the public was provided reasonable notice of, and an opportunity to comment on, the modified turbidity limit and associated mixing zone, including site-specific assessments used to calculate the limit and zone, prior to their approval by ADEC.

d. The volume of discharge shall not exceed the volume reported by the permittee on the NOI (Appendix A). If the permittee exceeds that volume, EPA will not consider the permittee in violation of the flow limit if:

i. the permittee submits to EPA turbidity samples taken during the period of the flow exceedence; and,

ii. those samples show that the permittee's discharge did not exceed the turbidity limit established in Part II.A.1.b or Part II.A.1.c., whichever is applicable.

The permittee must report all exceedences of the flow limit, together with any turbidity data which the permittee intends to use to avoid being considered in violation of the flow limit, pursuant to the reporting requirements in Part IV.G.

2. Effluent discharges are prohibited during periods when new water is allowed to enter the plant site. Additionally, there shall be no discharge as a result of the intake of new water.

B. Suction Dredging

1. At all points in the receiving stream 500 feet downstream of the dredge's discharge point, the maximum allowable increase in turbidity over the natural receiving stream turbidity while operating is 5 NTUs.

2. A visual increase in turbidity (any cloudiness or muddiness) 500 feet downstream of the suction dredge during operations would be considered a violation of the 5 NTU limit.

3. If noticeable turbidity does occur 500 feet downstream of the work site, operation of the suction dredge must decrease or cease so that a violation as defined above does not exist.

C. Monitoring Requirements

1. Mechanical Operations. a. During the period beginning on the effective date of this permit and lasting until the expiration date, the following monitoring shall be conducted:

Effluent characteristic	Monitoring location	Monitoring frequency	Sample type
Settleable Solids (ml/l)	effluent	once per day each day of discharge	Grab.
Turbidity (NTU)	effluent	3 times per season *	Grab.
	background	3 times per season *	Grab.
Arsenic (µg/l)	effluent	3 times per season *	

Effluent characteristic	Monitoring location	Monitoring frequency	Sample type
Grab ** Flow (gpm)	effluent	* * *	Instantaneous.

* See Part II C.1.c. & d. for details.

** Analyzed by EPA Method 206.2 with a detection limit of 1 µg/l.

*** See Part II. C.1.f. for details.

b. Inspection Program. The Permittee shall institute a comprehensive inspection program to facilitate proper operation and maintenance of the recycle system and the wastewater treatment system. As a part of the comprehensive inspection program, the permittee shall record the information requested on Attachment 4 to this permit on a daily basis. The Permittee shall conduct a visual inspection of the site once per day, while on site, during the mining season. The Permittee shall maintain records of all information resulting from any inspections in accordance with part IV.F. of this permit. These records shall include an evaluation of the condition of all water control devices such as diversion structures and berms and all solids retention structures including, but not limited to, berms, dikes, pond structures, and dams. The records shall also include an assessment of the presence of sediment buildup within the settling ponds. The Permittee shall examine all ponds for the occurrence of short circuiting.

c. Turbidity Monitoring. Permittees that have obtained a site-specific turbidity limit under Permit Part II.A.1.c. shall take at least one turbidity sample for each calendar month in which there is a discharge and at least three turbidity samples for the entire mining season, even if the Permittee has a discharge in fewer than three calendar months. Those Permittees that do not obtain a site-specific turbidity limit shall take at least one turbidity sample set (i.e. the discharge and background samples referenced in Part IV.A.) for each calendar month in which there is a discharge and at least three turbidity sample sets for the entire mining season, even if the Permittee has a discharge in fewer than three calendar months. Both samples of a sample set shall be taken within a reasonable time frame.

A Permittee who has had less than three days of discharge over the course of the mining season, must submit one sample or sample set for each day of discharge.

All samples must be taken and stored in the manner set forth in Attachment 1. All sample results shall be reported on the annual Discharge Monitoring report (DMR). Monitoring shall be

conducted in accordance with accepted analytical procedures.

d. Arsenic Monitoring. Arsenic samples shall be representative of the discharge and shall be taken at a point prior to entering the receiving stream. Monitoring shall be conducted in accordance with accepted analytical procedures. The Permittee shall report the sample results on the DMR. See attachment 2 for sampling protocol. Because the water quality based effluent limit for arsenic (.18 µg/l) is below the MDL (1 µg/l) using EPA Method 206.2, EPA has derived an interim minimum level of 3 µg/l ($3.18 \times 1 \mu\text{g/l} = 3.18$ rounded to 3) as the quantifiable level. For purposes of reporting analytical results for arsenic in the DMR, results below the MDL will be reported as "less than 1 µg/l". Actual analytical results shall be reported on the DMR when the results are greater than the MDL. The permittee must also specify in the comment column of the DMR that Method 206.2 was used for analysis.

The Permittee shall take at least one arsenic sample for each calendar month in which there is a discharge and at least three arsenic samples for the entire mining season, even if the Permittee has a discharge in fewer than three calendar months. A Permittee who has had less than three days of discharge over the course of the mining season, must submit one sample for each day of discharge.

All samples must be taken and stored in the manner set forth in Attachment 2.

e. Settleable Solids Monitoring. Settleable solids samples shall be representative of the discharge and shall be taken at a point prior to entering the receiving stream. Monitoring shall be conducted in accordance with accepted analytical procedures (Standard Methods, 17th Edition, 1989). The Permittee shall report the daily sample results on the annual DMR. See attachment 3 for sampling and analysis protocol. Attachment 4 provides an example of how monitoring results may be recorded and reported.

f. Flow Monitoring. Effluent flow shall be measured at the discharge prior to entering the receiving water. Effluent flow shall be measured at least once per day, for continuous discharges, or once during each discharge event if

discharges are intermittent. The operator must also estimate seepage discharging to waters of the United States each day that seepage occurs. Effluent flow and seepage flow shall be measured in gallons per minute (gpm). The flow and seepage measurements, the number of discharge events, and the duration of each discharge event shall be reported in the annual DMR for each day of the mining season. For each day in which the permittee fails to monitor effluent flow when required by this permit, the permittee will not be considered in violation of this permit if:

- i. the permittee submits to EPA turbidity samples taken during each day in which flow was not monitored; and,
- ii. those turbidity samples show that the permittee's discharge did not exceed the turbidity effluent limit in Part II.A.1.b.

The permittee must report all failures to comply with the flow monitoring requirement, together with any turbidity data which the permittee intends to use to avoid being considered in violation of that requirement, pursuant to the reporting requirements in Part IV.G.

2. Suction Dredges. a. Suction Dredge operations shall visually monitor for turbidity as described in Permit Part II.B. once per day of operation, in the following manner: Operators shall mark the point 500 feet downstream of the point of discharge from the suction dredge. With this 500 foot point marked, individuals who conduct visual monitoring shall observe the turbidity plume, where visible, immediately downstream until they reach either the point at which the turbidity plume is no longer visible, or the 500 foot mark, whichever point comes first. Monitors shall record daily all turbidity monitoring results. The Permittee shall maintain records of all information resulting from any visual inspections.

b. The Permittee will report the period of suction dredging on the DMR. Visual violation occurrences will also be reported on the DMR along with the measures taken to comply with the provisions of Permit Part II.B.3. The requirements of this paragraph are not applicable to suction dredges with intake hoses of less than or equal to 4 inches.

III. Management Practices

A. Mechanical Operations

1. The flow of surface waters (i.e., creek, river, or stream) into the plant site shall be interrupted and these waters diverted around and away to prevent incursion into the plant site.

2. Berms, including any pond walls, dikes, low dams, and similar water retention structures shall be constructed in a manner such that they are reasonably expected to reject the passage of water.

3. Measures shall be taken to assure that pollutant materials removed from the process water and wastewater streams will be retained in storage areas and not discharged or released to the waters of the United States.

4. The amount of new water allowed to enter the plant site for use in material processing shall be limited to the minimum amount required as makeup water.

5. All water control devices such as diversion structures and berms and all solids retention structures such as berms, dikes, pond structures, and dams shall be reasonably maintained to continue their effectiveness and to protect from failure.

6. The operator shall take whatever reasonable steps are appropriate to assure that, after the mining season, all unreclaimed mine areas, including ponds, are in a condition which will not cause degradation to the receiving waters over those resulting from natural causes.

7. During each mining season, a permittee may not discharge into the receiving stream within five hundred feet of any upstream or downstream placer mining discharges which are occurring or have already occurred that season. Nor may a permittee discharge at a point within five hundred feet of the downstream edge of a mixing zone granted for any upstream placer mining discharges.

B. Suction Dredges

1. Dredging is permitted only within the active stream channel. Dredging within the active stream channel which results in undercutting or excavating, or which otherwise results in erosion of a stream bank, is prohibited.

2. Except as provided in paragraph 3 below, wherever practicable, the dredge shall be set to discharge into a quiet pool, where settling of dredge spoils can occur more rapidly.

3. Dredging and discharging are prohibited within 500 feet of locations where fish are known to spawn or where fish eggs are known to exist at the time dredging occurs. Each Permittee

shall consult the regional office of the Alaska Department of Fish & Game (ADFG) for the region in which the Permittee proposes to operate a dredge in order to obtain the information necessary to comply with this BMP.

Each Permittee shall report the information obtained from ADFG, and the name and title of the official contacted, to EPA concurrently with the NOI.

4. Winches or other motorized equipment shall not be used to move boulders, logs, or other natural instream obstructions.

5. No wheeled or tracked equipment may be used instream.

6. Suction dredges shall not operate (including discharge) within 1000 feet of another dredging operation occurring simultaneously or known to have occurred within the previous 12 months.

7. Dredging of silt and clay is prohibited.

8. Care shall be taken by the operator during refueling of the dredge to prevent spillage into public waters or to groundwater.

C. Other Requirements: Mechanical Operations

The operator shall maintain fuel handling and storage facilities in a manner which will prevent the discharge of fuel oil into the receiving waters or on the adjoining shoreline. A Spill Prevention Control and Countermeasure Plan (SPCC Plan) shall be prepared and updated as necessary in accordance with provisions of 40 CFR Part 112 for facilities storing 660 gallons in a single container above ground, 1320 gallons in the aggregate above ground, or 42,000 gallons below ground.

The Permittee shall indicate on the DMR if an SPCC Plan is necessary and in place at the site and if changes were made to the Plan over the previous year.

D. Storm Exemption

The Permittee may qualify for a storm exemption from the technology-based effluent limitation in Permit Part II.A.1.a. of this NPDES general permit if the following conditions are met:

1. The treatment system is designed, constructed and maintained to contain the maximum volume of untreated process wastewater which would be discharged, stored, contained and used or recycled by the beneficiation process into the treatment system during a 4-hour operating period without an increase in volume from precipitation or infiltration, plus the maximum volume of water runoff (drainage waters) resulting from a 5-year, 6-hour precipitation event. In computing the

maximum volume of water which would result from a 5-year, 6-hour precipitation event, the operator must include the volume which should result from the plant site contributing runoff to the individual treatment facility.

2. The operator takes all reasonable steps to maintain treatment of the wastewater and minimize the amount of overflow.

3. The source is in compliance with the Management Practices in Permit Part III.A.

4. The operator complies with the notification requirements of Permit Parts IV.G. and IV.H.

IV. Monitoring and Reporting Requirements for Mechanical Operations and Suction Dredges With Intake Hoses of Greater Than 4 Inches

A. Representative Sampling

All samples for monitoring purposes shall be representative of the monitored activity, 40 CFR 122.41 (j). To determine compliance with permit effluent limitations, "grab" samples shall be taken as established under Permit Part II.D. Specifically, effluent samples for settleable solids, turbidity, and arsenic shall be collected from the settling pond outlet or other treatment systems' outlet prior to discharge to the receiving stream. Additionally, turbidity background samples shall be taken at a point that is representative of the receiving stream just above the permittee's mining operation. Those who receive a site-specific turbidity limit, pursuant to Permit Part II.A.1.c., are not required to take background turbidity samples. Samples for arsenic and turbidity monitoring must be taken during sluicing at a time when the operation has reached equilibrium. For example, samples should be taken when sluice paydirt loading and effluent discharge are constant.

B. Reporting of Monitoring Results

Monitoring results shall be summarized each month and reported on EPA Form 3320-1 (DMR). The DMR shall be submitted to the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Enforcement Section WD-135, Seattle, Washington 98101-3188, no later than November 30 each year.

If there is no mining activity during the year or no wastewater discharge to a receiving stream, the Permittee shall notify EPA of these facts no later than November 30 of each year.

The DMR shall also be sent to the ADEC office located in Fairbanks. The address can be found in permit part I.F.3.

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

E. Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

F. Retention of Records

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or ADEC at any time. Data collected on-site, copies of DMRs, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. Notice of Noncompliance Reporting

1. Any noncompliance which may endanger health or the environment shall be reported as soon as the Permittee becomes aware of the circumstance. A written submission shall also be provided in the shortest reasonable period of time after the Permittee becomes aware of the occurrence.

2. The following occurrences of noncompliance shall also be reported in writing in the shortest reasonable period of time after the Permittee becomes aware of the circumstances:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Permit Part V.G., Bypass of Treatment Facilities.); or

b. Any upset which exceeds any effluent limitation in the permit (See Permit Part V.H., Upset Conditions.).

c. Any violation of any of the requirements of this Permit.

3. The written submission shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. The estimated time noncompliance is expected to continue if it has not been corrected;

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;

e. Any turbidity data submitted pursuant to Parts II.A.1.d. (Effluent flow limit) and II.C.f (Flow Monitoring); and

f. Mechanical operations must also provide the information required by Attachment 4 for each date of the period of noncompliance.

4. The Director may waive the written report on a case-by-case basis if an oral report has been received within 24 hours by the Enforcement Section in Seattle, Washington, by phone, (206) 553-1213.

5. Reports shall be submitted to the addresses in Permit Part IV.B., Reporting of Monitoring Results.

H. Other Noncompliance Reporting

Instances of noncompliance not required to be reported in Permit Part IV.G. above shall be reported at the time that monitoring reports for Permit Part IV.B. are submitted. The reports shall contain the information listed in Permit Part IV.G.3.

V. Compliance Responsibilities

A. Duty to Comply

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The Permittee shall give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions

1. Administrative Penalty. The Act provides that any person who violates a permit condition implementing Sections

301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to an administrative penalty, not to exceed \$10,000 per day for each violation.

2. Civil Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil penalty, not to exceed \$25,000 per day for each violation.

3. Criminal Penalties:

a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

b. Knowing Violations. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.

c. Knowing Endangerment. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.

d. False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. Except as provided in permit conditions in Permit Part V.G., Bypass of Treatment Facilities and Permit Part V.H., Upset Conditions, nothing in this permit shall be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

C. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty To Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances

Solids, sludges or other pollutants removed in the course of treatment or control of wastewater's shall be disposed of in a manner so as to prevent any pollutant from such materials from entering waters of the United States.

G. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.

2. Notice:

a. Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required under Permit Part IV.G., Notice of Noncompliance Reporting.

3. Prohibition of bypass.

a. Bypass is prohibited and the Director or ADEC may take enforcement

action against a Permittee for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The Permittee submitted notices as required under paragraph 2 of this section.

b. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. An administrative review of a claim that noncompliance was caused by an upset does not represent final administrative action for any specific event. A determination is not final until formal administrative action is taken for the specific violation(s).

2. Conditions necessary for a demonstration of upset. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the Permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The Permittee submitted notice of the upset as required under Permit Part IV.G., Notice of Noncompliance Reporting; and

d. The Permittee complied with any remedial measures required under Permit Part V.D., Duty to Mitigate.

3. Burden of proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants

The Permittee shall comply with effluent standards or prohibitions

established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

VI. General Requirements

A. Changes in Discharge of Toxic Substances

Notification shall be provided to the Director and ADEC as soon as the Permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

a. One hundred micrograms per liter (100 µg/l);

b. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

d. The level established by the Director in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

a. Five hundred micrograms per liter (500 µg/l);

b. One milligram per liter (1 mg/l) for antimony;

c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

d. The level established by the Director in accordance with 40 CFR 122.44(f).

B. Planned Changes.

The Permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Permit Part VI.A.1.

3. The alteration or addition will significantly change the location, nature or volume of discharge or the quantity of pollutants, subject to the effluent limitations, discharged.

C. Anticipated Noncompliance

The Permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

D. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

E. Duty to Reapply

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit. The NOI should be submitted at least 90 days before the expiration date of this permit.

F. Duty to Provide Information

The Permittee shall furnish to the Director and ADEC, within a reasonable time, any information which the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this permit.

G. Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit such facts or information.

H. Signatory Requirements

All applications, reports or information submitted to the Director and ADEC shall be signed and certified.

1. All permit applications shall be signed as follows:

a. For a corporation: by a responsible corporate officer.

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and

b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to authorization. If an authorization under paragraph IV.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph VI.H.2. must be submitted to the Director and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

I. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the

Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.

K. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

N. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The information collection requirements of this permit have already been approved by the Office of Management and Budget in submission made for the NPDES permit program under the provisions of the CWA.

O. Inspection and Entry

The Permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or

where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

VII. Reopener Clause

If effluent limitations or requirements are established or modified in an approved State Water Quality Management Plan or Waste Load Allocation and if they are more stringent than those listed in this permit or control a pollutant not listed in this permit, this permit may be reopened to include those more stringent limits or requirements.

VIII. Definitions

A. "Active Stream Channel" means that part of the channel that is below the level of the water.

B. "Bypass" means the intentional diversion of waste streams around any portion of a treatment facility.

C. "Drainage Water" means incidental surface waters from diverse sources such as rainfall, snow melt or permafrost melt.

D. "Expanding Facility" means any facility increasing in size such as to affect the discharge but operating within the permit area covered by its general permit.

E. A "Grab" sample is a single sample or measurement taken at a specific time.

F. "Hydraulic removal" means both the hydraulic removal of overburden and the use of hydraulic power to move raw rock to the point of processing (i.e. to the gate of the sluice or other processing equipment).

G. "Infiltration Water" means that water which permeates through the earth into the plant site.

H. "Instantaneous Maximum" means the maximum value measured at any time.

I. "Mine Drainage" means any water, not associated with active sluice water, that is drained, pumped or siphoned from a mine.

J. "Mining Season" means the time between the start of mining in a calendar year and when mining has ceased for that same calendar year.

K. "Monitoring Month" means the period consisting of the calendar weeks

which begin and end in a given calendar month.

L. "New Facility" means a facility that has not operated in the area specified in the NOI prior to the submission of the NOI.

M. "NTU" (Nephelometric Turbidity Unit) is an expression of the optical property that causes light to be scattered and absorbed rather than transmitted in a straight line through the water.

N. "Make-up Water" means that volume of water needed to replace process water lost due to evaporation and seepage in order to maintain the quantity necessary for the operation of the beneficiation process.

O. "New Water" means water from any discrete source such as a river, creek, lake or well which is deliberately allowed or brought into the plant site.

P. "Plant Site" means the area occupied by the mine, necessary haulage ways from the mine to the beneficiation process, the beneficiation area, the area occupied by the wastewater treatment storage facilities and the storage areas for waste materials and solids removed from the wastewater's during treatment.

Q. "Receiving Water" means waters such as lakes, rivers, streams, creeks, or any other surface waters which receive wastewater discharges.

R. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

S. "Short circuiting" means ineffective settling ponds due to inadequate or insufficient retention characteristics, excessive sediment deposition, embankment infiltration/percolation, lack of maintenance, etc.

T. "Silt and Clay" are soil particles having a diameter of less than 0.002 mm (2 microns).

U. "Turbidity Modification" means the procedures used to calculate a higher turbidity limit based on a mass balance equation which relates upstream receiving water flow and turbidity to effluent flow and turbidity. The basic form of this equation is:

$$Q_1 C_1 = Q_2 C_2,$$

where

C_1 = effluent turbidity ;

C_2 = receiving water downstream turbidity after mixing where the allowable increase is 5 NTU above background (i.e. 5 NTU);

Q_1 = effluent flow and,

Q_2 = total receiving water flow downstream from discharge after complete mixing (i.e. 30Q10).

V. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

W. "Wastewater" means all water used in and resulting from the beneficiation process (including but not limited to the water used to move the ore to and through the beneficiation process, the water used to aid in classification, and the water used in gravity separation), mine drainage, and infiltration and drainage waters which commingle with mine drainage or waters resulting from the beneficiation process.

Attachment 1

Turbidity Sampling Protocol

1. Grab samples shall be collected.
2. Samples shall be collected in a sterile one liter polypropylene or glass container.
3. Samples must be cooled to 4 degrees Celsius (iced).
4. Samples must be analyzed within 48 hours of sample collection.

Attachment 2

Arsenic Sampling Protocol

1. Grab samples shall be collected.
2. Samples shall be collected in a sterile one liter polypropylene or glass container.
3. Samples must be cooled to 4 degrees Celsius (iced).
4. Samples must be acidified promptly with nitric acid (HNO₃), to a pH less than 2.¹
5. Samples must be sent to a laboratory for analysis within 60 days.
6. Samples must be acidified for at least 16 hours prior to analysis.

Attachment 3

Settleable Solids Sampling Protocol

1. Grab samples shall be collected.
2. Samples shall be collected in a sterile one liter polypropylene or glass container.
3. Samples must be cooled to 4 degrees Celsius (iced), if analysis is not performed immediately.

¹ Samples that are not acidified promptly must be sent to a laboratory within 48 hours of sample collection.

4. Samples must be analyzed within 48 hours of sample collection.

Settleable Solids Analysis Protocol

1. Fill an Imhoff cone to the liter mark with a thoroughly mixed sample.

2. Settle for 45 minutes, then gently stir the sides of the cone with a rod or by gently spinning the cone.

3. Settle 15 minutes longer, then record the volume of settleable matter in the cone as milliliters per liter. Do not estimate any floating material. The lowest measurable level on the Imhoff cone is 0.1 ml/l. Any settleable material below the 0.1 ml/l mark shall be recorded as trace.

Attachment 4: Placer Mine Daily Checklist

Date

Weather

Is There a Discharge Today (including seepage)?

What is the Volume of Discharge (gallons per minute)?

How Much Make-up Water Did You Allow Into Your Mine Site, if Any?

What is the Volume of Settleable Solids in the Effluent? (ML/L)

Are ANY of Your Ponds, Dikes and Berms Leaking or Eroding? (describe)

How Far Below Your Discharge Can You Observe a Discharge Plume, If Any?

Don't Forget to Take Your Turbidity and Arsenic Samples.

[FR Doc. 96-1707 Filed 1-30-96; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Environmental Review Procedures

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: The Export-Import Bank ("Ex-Im Bank") is extending the effective date of its existing Environmental Procedures and Guidelines (which were issued on February 1, 1995 for a one-year trial period expiring on February 1, 1996) to April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Popi Artavanis, Export-Import Bank of the United States, Engineering and Environment Division, 811 Vermont Ave., N.W., Washington, DC 20571, tel: (202) 565-3570.

SUPPLEMENTARY INFORMATION: Section 106 of the Export Enhancement Act (12 U.S.C. 635i-5) ("Section 106") provides that Ex-Im Bank shall establish environmental review procedures consistent with the Bank's overall

mandate to maintain U.S. export competitiveness. Pursuant to this section, the Ex-Im Bank Board of Directors approved a set of Environmental Procedures and Guidelines on February 1, 1995. The new procedures and guidelines were made effective on a one-year trial basis until February 1, 1996. The Ex-Im Bank is extending the effective date of these procedures and guidelines to April 1, 1996.

These procedures and guidelines are not subject to notice and comment requirements or to publication in the Federal Register pursuant to 5 U.S.C. 553(a)(2), 553(b)(A), and 553(d)(2). Copies may be obtained by written request from Ex-Im Bank's Engineering and Environment Division, 811 Vermont Avenue, N.W., Washington, DC 20571.

Accordingly, under the authority of Section 106 of the Export Enhancement Act (12 U.S.C. 635i-5), the Environmental Procedures and Guidelines will remain in effect until April 1, 1996.

Dated: January 25, 1996.

Kenneth W. Hansen,

General Counsel, Export-Import Bank of the United States.

[FR Doc. 96-1985 Filed 1-30-96; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2119]

Petition for Reconsideration of Actions in Rulemaking Proceedings

January 26, 1996.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to this petition must be filed February 15, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Jefferson City, Cumberland Gap, Elizabethton, TN and Jonesville, VA) (MM Docket No. 94-116, RM-8507, RM-8567) Number of Petition Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM

Broadcast Stations. (Columbia, Bourbon, Leasburg, Gerald, Dixon and Cuba, Missouri) (MM Docket No. 92-214, RM-8062, RM-8144, RM-8145, RM-8146, RM-8147) Number of Petitions Filed: 2.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Ava, Branson and Mountain Grove, Missouri) (MM Docket No. 91-352, RM-7866) Number of Petition Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Brookline, Missouri) (MM Docket No. 90-195, RM-7152) Number of Petition Filed: 1.

Subject: Amendment of Section 73-202(b), Table of Allotments, FM Broadcast Stations. (Cloverdale, Montgomery and Warrior, Alabama) (MM Docket No. 94-78, RM-8472, RM-8525) Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-1852 Filed 1-30-96; 8:45 am]

BILLING CODE 6712-01-M

[GC Docket No. 95-172; FCC 95-468]

Rainbow Broadcasting Co.

AGENCY: Federal Communications Commission.

ACTION: Hearing Designation Order.

SUMMARY: The Commission is designating a hearing to determine whether Rainbow Broadcasting Company is qualified to be a Commission licensee. The United States Court of Appeals for the District of Columbia directed the Commission to conduct such a hearing. The hearing will resolve all questions regarding Rainbow Broadcasting Company's qualifications.

FOR FURTHER INFORMATION CONTACT: Ava H. Berland, Office of General Counsel, at 202-418-1720.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the *Memorandum Opinion and Hearing Designation Order* in GC Docket No. 95-172, adopted November 20, 1995 and released November 22, 1995. The full text of this document is available for inspection and copying, Monday through Friday, 9 a.m. to 4:30 p.m. in the FCC Dockets Reference Room (room 239), 1919 M St., N.W., Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

2. The court in *Press Broadcasting Company, Inc. v. FCC*, 59 F.3d 1365