

modified to accommodate TAP's concern.

Second, TAP questioned whether cleaning up a spill or discharge below any visible evidence of the spill or discharge was environmentally sufficient; they stated that a spill or discharge may penetrate into the ice below the point of visibility. TAP wanted the cleanup of any spill or discharge to be confirmed by testing, presumably by sampling and analysis. As described in the section entitled **SUPPLEMENTARY INFORMATION** in the proposed permit notice (68 FR 775, 778), NSF conducted sampling and analysis on a previous ice pier, evaluating both general areas of the pier and specific locations that showed any sign of contamination. The results of these analyses demonstrated that cleanup efforts were effective in removing petroleum hydrocarbons. EPA believes that the combination of spill prevention measures by NSF to minimize the risk of any spills or discharges, as well as the removal of any visually contaminated areas in a spill event will effectively address any concerns with residual contamination of the ice pier. Consequently, the language of the permit has not been modified to reflect TAP's comments on this point.

E. Endangered Species Act

The Endangered Species Act (ESA) imposes duties on Federal agencies regarding endangered species of fish, wildlife, or plants and habitats of such species that have been designated as critical. Section 7(a)(2) of the ESA and its implementing regulations (50 CFR part 402) require EPA to ensure, in consultation with the Secretary of Interior or Commerce, that any action authorized, funded, or carried out by EPA in the United States or upon the high seas, is not likely to jeopardize the continued existence of any endangered or threatened species, or adversely affect their critical habitat.

In compliance with section 7 of the ESA, an endangered species list for the affected area of ocean dumping of ice piers from the NSF facility at McMurdo Station was requested by EPA and received from both the Fish and Wildlife Service (F&WS) of the Department of the Interior and the National Marine Fisheries Service (NMFS) of the Department of Commerce. No endangered, threatened, or candidate species are reported to occur in the affected area.

Before issuing the notice proposing issuance of a general permit to NSF for the ocean dumping of ice piers, EPA discussed this matter with both the F&WS and the NMFS pursuant to

section 7 of the ESA, and the agencies have agreed that the ocean dumping of ice piers by the NSF or its agents from McMurdo Station in Antarctica will have no effect on endangered or threatened species. EPA stated that it would consider any comments offered by either the F&WS or the NMFS on this issue before promulgating a final general permit for the ocean dumping of ice piers. No further comments were received from either agency on this matter.

Dated: February 11, 2003.

Suzanne E. Schwartz,

Director, Oceans and Coastal Protection Division.

The general permit is as follows:

Disposal of Ice Piers from McMurdo Station, Antarctica

The United States National Science Foundation and its agents are hereby granted a general permit under sections 102(a) and 104(c) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1412(a) and 1414(c), to transport ice piers from the McMurdo Sound, Antarctica, research station for the purpose of ocean dumping, subject to the following conditions:

(a) The NSF shall have a spill prevention, control, and countermeasures (SPCC) plan in place, consistent with the requirements of 40 CFR 112.3, for the McMurdo Station ice pier. The SPCC plan shall address procedures for loading and unloading the following materials, and shall include methods to minimize the accidental release or discharge of any of the following materials to the ice pier:

(1) Petroleum products unloaded from supply tankers to the storage tanks at McMurdo Station;

(2) Drummed chemicals, petroleum products, and materiel unloaded from cargo freighters to supply depots at McMurdo Station; and

(3) Materials loaded to freighters destined to be returned to bases outside Antarctica.

(b) If a spill or discharge occurs on an ice pier, clean-up procedures must be completed by NSF or its contractors to a level below any visible evidence of the spill or discharge. All spills or discharges on an ice pier must be cleaned up within two hours of the spill or discharge, unless circumstances prevent cleanup within this time frame. In that event, the spill or discharge will be cleaned up as soon as possible thereafter.

(c) As part of normal monitoring requirements, a record of the following information shall be kept by NSF:

(1) The date and time of all spills or discharges, the location of the spill or discharge, a description of the material that was spilled or discharged, the approximate volume of the spill or discharge, clean-up procedures employed, and the results;

(2) The number of wooden poles remaining in the pier at the time of its release from McMurdo Station, and their approximate length;

(3) The approximate length of the steel cables remaining in the pier at the time of its release from McMurdo Station;

(4) Any other substances remaining on the pier at the time of its release from McMurdo Station; and

(5) The date of detachment of the pier from McMurdo Station, and the geographic coordinates (latitude and longitude) of the point of final release of the pier in McMurdo Sound or the Antarctic Sea.

(d) The non-embedded ends of all wooden utility poles and bollards will be cut off from the ice pier prior to disposal, and shall not be disposed of in the ocean.

(e) Prior to the ocean dumping of any ice piers, the following actions shall be taken by NSF:

(1) Other than the matter physically embedded in the ice pier (*i.e.*, the ends of light poles or bollards frozen in the pier, and the strengthening cables), all other objects (including the non-embedded portions of bollards used for maintaining a connection between the pier and the mainland, the non-embedded portions of poles used for lighting, power, or telephone connections, and any removable equipment, debris, or objects of anthropogenic origin), shall be removed from the pier prior to dumping.

(2) The gravel non-slip surface of the pier shall be removed to the maximum extent possible, and stored on the mainland for subsequent use.

(3) A methodology to track any ice piers released from McMurdo Station shall be established and utilized for a period of one year from the date of release of the ice pier. The results of these tracking efforts are to be included in the annual reports that the NSF is required to submit to EPA.

(f) The NSF shall submit a report by June 30 of every year to the Director of the Oceans and Coastal Protection Division, in EPA's Office of Water, on

(1) Any spills, discharges, or clean-up procedures on the ice pier at McMurdo Station, (2) any ocean dumping of ice piers from McMurdo Station, and (3) any tracking efforts of ice piers released from McMurdo Station under this