

**Department of Environmental Conservation
Response to Comments**

For

**Offshore Seafood Processors Wastewater Discharge
General Permit**

APDES Permit No. AKG523000

Public Noticed May 16, 2018 – July 2, 2018

September 28, 2018



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

1 Introduction

1.1 Summary of Facility / Permit

The Alaska Department of Environmental Conservation (DEC or the Department) proposes to re-issue an Alaska Pollutant Discharge Elimination System (APDES) statewide general permit to operator(s) or owner(s) of vessels that discharge seafood process waste and wastewater to water of the United States (U.S.). The permit authorizes discharges to all waters of the U.S. (marine, estuarine, and fresh) under the jurisdiction of the State of Alaska except for those listed in the permit as Excluded Areas. The permit is the reissuance of AKG523000, previously issued on May 23, 2011 and modified on August 21, 2012.

In order to ensure protection of water quality and human health, the permit places limits on the types and amounts of pollutants that can be discharged from these facilities, outlines best management practices to which the facility must adhere, and requires effluent and receiving water monitoring. Stationary vessels discharging seafood processing waste to waters less than -120 feet in depth may also request a location-specific zone of deposit (ZOD) to allow deposits of seafood residues. Applicants may also request a mixing zone for each port/discharge pipe, to which a standard mixing zone will be applied, sized as a circle with a 100-foot radius centered at the discharge terminus extending vertically from the seafloor to the surface.

1.2 Opportunities for Public Participation

The Department of Environmental Conservation proposed to re-issue an Alaska Pollutant Discharge Elimination System (APDES) wastewater discharge general permit, *Offshore Seafood Processors Wastewater Discharge General Permit*. To ensure public, agency, and tribal notification and opportunities for participation the Department:

- identified the permit on the annual Permit Issuance Plan posted online at: <http://dec.alaska.gov/water/wastewater.aspx>
- notified potentially affected tribes and local governments that the Department would be working on this permit via letter, fax and/or email on January 5, 2017
- posted a preliminary draft of the permit on-line for a 10-day applicant review March 23, 2018 and notified tribes, local government(s) and other agencies
- formally published public notice of the draft permit on May 16, 2018 in the Anchorage Daily News, Juneau Empire, and the Fairbanks Daily News Miner and posted the public notice on the Department's public notice web page
- posted the proposed final permit on-line for a 5-day applicant review on August 24, 2018
- sent email notifications via the APDES Program List Serve when the preliminary draft, draft, and proposed final permits were available for review

The Department received comments from five interested parties on the draft permit and supporting documents. The Department also requested comment from the Department of Natural Resources (DNR), the Alaska Department of Fish and Game (ADF&G), the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the U.S. Environmental Protection Agency (EPA). The Department received comments from ADF&G and NMFS.

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

1.3 Final Permit

The final permit was adopted by the Department on October 1, 2018. There were changes from the public noticed permit. Significant changes are identified in the response to comments and reflected in the final fact sheet for the permit.

2 General Comments

The Department received comments of both general support and opposition to the permit. In general, the comments received were supportive of the permit as a whole, with objections or concerns with specific parts, conditions or limitations.

2.1 Comment Summary

One comment was received stating that the scope and requirements of the permit are more onerous than necessary for the operations of seafood processing vessels covered by this permit.

Response:

The Department is required to include permit limitations that protect the existing uses of the receiving water and that do not degrade or further degrade the receiving water, except as allowed by regulation. Technology based effluent limitations and performance standards have been established by the EPA for remote seafood processors in Alaska, and were developed based on the demonstrated performance of a reasonable level of treatment that is within the economic means of the industry.

There were no revisions to the permit documents based on this comment.

2.2 Comment Summary

The Department received a comment letter from the Qawalangin Tribe of Unalaska submitted as a response to the request for comments as applicable to the APDES permit re-issuance for permit AK000272 for the Alyeska Seafoods, Unalaska Facility. This letter contained comments general in nature and requested that the comments should include and apply to the AKG523000 permit.

Response:

The Department acknowledges the general comments as received inquiring as to the requirements contained in the reissued permit, including annual reporting, BMP, monitoring, how violations are reported and data is distributed. This information is available in the permit and fact sheet.

There were no revisions to the permit documents based on this comment.

3 General Comments - Formatting, Cover Letter, Schedule of Submissions, Definitions

3.1 Comment Summary

Comments were received concerning the permit document formatting and edits to the page numbers. Edits were also recommended to the footer on the cover page of the permit.

Response:

Edits were made to correct formatting and page numbers. The footer on the cover page was updated to the suggested language “A copy of the general permit and written authorization must be kept on the vessel where the discharge occurs and at the office of the Responsible Party”.

3.2 Comment Summary

A comment requested clarification of the Notice of Intent (NOI) submittal date of January 1, 2019 for AKG520000 and AKG523000 operators in regards to the date being set or dependent on the actual permit issuance date. The comment also states that Table 1 could include a schedule of submissions for all deliverables by the permit (seafloor survey, BMP review, and QAPP review have been omitted).

Response:

The NOI submission date is not dependent on the actual permit issuance date. The Department anticipates the reissued AKG523000 permit to have an effective date of January 1, 2019, corresponding to the NOI due date, therefore, the due date is a set date. There were no revisions to the permit documents based on this comment.

The Seafloor Survey submittals, Permit Part 2.3.4.7, were included in Table 1. The BMP/QAPP review pages have been added to Table 1, the Schedule of Submissions. The permittee is responsible for all submissions and activities even if they are not summarized in Table 1.

3.3 Comment Summary

A comment was received that the permit should use consistent terms throughout the permit, either choosing to use ‘permittee’ or ‘operator’. The commenter recommended use of ‘operator’.

Response:

The Department has edited the permit where appropriate for consistency using the term ‘permittee’ throughout the permit. Additionally, language was added to permit Part 1.5 to define permittee as meaning an owner or operator as defined in 18 AAC 83.990(45).

3.4 Comment Summary

A comment was received that Appendix C of the permit includes repetitive, inconsistent, and unnecessary definitions.

Response:

Appendix C notes that not all of the terms listed in Appendix C may appear in a permit, as some are standard permit definitions. The Department also notes that where the term has been determined to be significant, the definition has been included in both the body of the permit and Appendix C. Where this has been determined necessary, the Department has reviewed terminology for consistency and has made revisions where appropriate.

There were no revisions to the permit documents based on this comment.

4 Part 1.0, Permit Authorization

4.1 Comment Summary

Comments were received that there is still confusion in Part 1.1 and 1.6.6 of the permit. Revised text was suggested to clarify the different categories, including the addition and modification of terms in Appendix C.

Response:

The Department has reviewed the suggested edits to the Parts noted above, and has incorporated partial changes to the permit. The Department added additional text for authorized seafood processing waste components into the body of the permit in Part 1.2.1 and clarified cleaning agents stated in 1.2.2. The incorporated revisions are specified as follows (additions are underlined below):

1.2.1 Seafood processing waste and process wastewaters, which includes the waste fluids, heads, organs, flesh, fins, bones, skin, chitinous shells, and stickwater produced by the conversion of seafood from a raw form to a marketable form.

1.2.2 ~~Cleaning agents used in process areas where the permittee follows the manufacturer's recommended use and disposal recommendations. This includes the use of Environmental Protection Agency (EPA) approved disinfectants added to wash down water to meet Food and Drug Administration's (FDA) sanitary conditions by facilitating waste removal while processing or sanitizing seafood processing areas.~~ Wash down water, which includes disinfectants added to wash-down water to meet the Food and Drug Administration's sanitary conditions by facilitating waste removal while processing or sanitizing seafood processing areas where the permittee follows the manufacturer's recommended use and disposal recommendations.

The Department did not implement changes proposed to Parts 1.1 through 1.1.5 or add the definition of shore to Appendix C, as shore is defined within the body of the permit.

4.2 Comment Summary

The draft permit only proposes to authorize in-transit vessels dumping seafood processing waste and other wastewaters from other facilities to inland waters of the state, i.e. on the landward side of any base-line or closing lines. This will become problematic when permit coverage under AKG520000 expires for facilities and vessels that discharge material on the ocean side of the baseline. How will the discharge of seafood processing waste from in-transit vessels with seafood waste from other facilities be authorized if not by this general permit to state waters on the ocean side of a baseline or closing water?

Response:

The Department does not issue wastewater discharge permits for ocean dumping outside the baseline. At-sea dumping of fish waste beyond the baseline is regulated by the Marine Protection, Research and Sanctuaries Act (MPRSA) or Ocean Dumping Act. These at-sea discharges were previously authorized by EPA under AKG520000; however, the Department does not have the authority to regulate at-sea discharge under the APDES program. A permittee seeking to transport seafood processing waste from onshore facilities and dump beyond the baseline is instructed to contact EPA for more information regarding the Ocean Dumping Act and associated requirements.

There were no revisions to the permit documents based on this comment

4.3 Comment Summary

Comments were received on the treatment requirement stated in the permit, and suggestions were made to modify the permit to include/note other types of treatment besides grinding.

Response:

Edits were made to Part 1.2.1.1 to address this comment. Edits included the following language updates (additions are underlined below):

1.2.1.1 Treatment of waste solids. A permittee shall treat seafood waste to 0.5 inch or smaller in any dimension prior to discharge. The 0.5 inch discharge solid size limitation does not apply to (1) the calcareous shells of scallops, clams, oysters, and abalones; (2) the calcareous shells of sea urchins; or (3) incidental catches of prohibited and by-catch species that are neither retained nor processed.

4.4 Comment Summary

Comments were made to divide the language and categories currently listed in Part 1.2.3 “Other Wastewaters”. One commenter also requested the addition of a new Part to the permit that includes the authorization of incidental discharges to the normal operations of the vessel that are no longer exempt from NPDES permit authorization, but excluded from coverage under the Vessel General Permit when operating as a seafood processing facility.

Response:

The Department reviewed the categories as currently included in the general permit and the Appendix C definition, which includes a list of authorized non-process wastewaters. Revisions to the permit were made to clarify wastewater categories. Part 1.2.1 was edited to include process wastewaters, and process wastewaters was removed from the “Other Wastewaters” Part 1.2.3 and Appendix C definition. Refer to the definition of process, non-process and other wastewaters in Appendix C, which include the ‘Other Wastewaters’ listed in Part 1.6.11.

The Department determined the new Part to the permit as suggested by the commenter authorizing incidental discharges is not appropriate. The intent of this permit is to provide coverage for seafood processing wastes and discharges associated with the standard operations and activity of seafood processing. Several of the incidental discharges listed in the submitted comment are included as Other Wastewaters under Part 1.6.11. All discharges associated with the standard or normal seafood processing operations, including any incidental discharges as described, should be included on the NOI submitted to the Department for authorization under the general permit. Additionally, incidental discharge information, maintenance and prevention should be included in the Best Management Practices Plan.

Part 2.1.5 Other Wastewaters states, “A permittee shall not discharge any wastewaters that exceed WQS except in compliance with a mixing zone or ZOD authorized by the permit.” As such, some of the listed incidental discharges in the submitted comment may contain pollutants exceeding the state water quality standards and therefore, are not authorized.

Part 1.6.11 was revised as follows:

The estimated or measured annual volume of discharge, including all incidental discharges resulting from normal seafood processing operation, from each outfall including the following contributing streams: process disinfectants, cooling water, boiler water, cooking water,

refrigeration condensate, refrigerated seawater, transfer water, live tank water, air scrubber water, drinking water backwash, and freshwater pressure relief water.

4.5 Comment Summary

A comment was received that authorization is needed for discharge from a fishing or tender vessel while tied/attached to the seafood processing vessel that are not discharged through one of the seafood processing vessel outfalls. The commenter would like this to be added as an authorized discharge.

Response:

The permitted vessel may accept another vessel's fish hold wastewater and treat according to the permit requirements. The permit does not provide authorization for another vessel tied up to the permitted vessel. Individual vessels which discharge to waters of the U.S. must apply for separate permit authorization coverage.

There were no revisions to the permit documents based on this comment.

4.6 Comment Summary

Comments were received suggesting changes to Part 1.3- Discharges Not Covered. The comment recommended breaking up the current Part 1.3.1 into Parts 1.3.1 – 1.3.3, including specifically listing out and prohibiting spills, garbage, and other unintentional or non-routine discharges of pollutants that are not part of the normal operation of the facility as disclosed in the NOI, and specifically authorized by the permit.

Response:

The suggested changes were implemented in the permit. The following language was edited and added (additions are underlined below):

1.3.1 Discharge of any waste or waste streams, including spills, garbage, and other unintentional or non-routine discharges of pollutants that are not part of the normal operation of the facility as disclosed in the NOI, and specifically authorized by the permit.

1.3.2 Discharge of any unused food additives (e.g., salts, artificial sweeteners, sugars, etc.) or seafood processing chemicals (e.g., sulfates, phosphates, acids, bases, etc.) that have not been used in the vessel's seafood processing production line.

1.3.3 The discharge of expired, spoiled, interim, or finished seafood processing by-products.

4.7 Comment Summary

There were a number of comments from the Alaska Department of Fish and Game suggesting edits to clarify between federally and state designated "Critical Habitat" and "Critical Habitat Areas" as currently found in subsections in Part 1.4. The comments also suggested updates to several Parts to clarify the species specific to critical habitat areas. One commenter also suggested removing the Excluded Area lists to the Appendices, and just include the specific type of Excluded Area.

Response:

The Department incorporated changes to the following parts, in order to clarify between State and Federal habitat:

- 1.4.1.2 State Designated Critical Habitat Areas- the appropriate areas listed in this Part were moved to Part 1.4.1.3.

- 1.4.1.3 This Part was updated to Federal Designated Critical Habitat. The appropriate Critical Habitat was moved between the State and Federal Parts listed in 1.4.1.2 and 1.4.1.3.
- 1.8.4.2.6.1 This Part was updated to note Steller's eiders at Pilot Point CHA (Ugashik Bay)
- 1.8.4.2.6.3 This Part was updated to Norton Sound Spectacled Eider Critical Habitat Unit

The Department has noted the subsequent comment in regards to Excluded Areas and will consider the revision of the requirements in Part 1.4 and placement in the Appendices in future permit development and reissuance. There were no revisions to the permit documents based on this comment.

4.8 Comment Summary

Comments were received regarding the submittal of a Notice of Intent, and suggestions were made to help clarify requirements and reduce duplication. One commenter recommended removing many of the requirements from Part 1.6 and adding them to the NOI form (Attachment A) as instructions, and removing from the body of the permit.

Response:

Changes were made in Part 1.5 to clarify verbiage and type of NOI submittals required, including the use of the Water Online Application System. Changes were made to Parts in 1.6 in order to clarify submittal requirements, adding 'daily' to Part 1.6.8.5 and 1.6.8.6 and 'annual' to Part 1.6.11. Clarification was made to Part 1.6.12.4 to specify that GPS coordinates are Latitude and Longitude. Part 1.6.12.4.1 was edited to improve clarity. Edits to this section are below (additions are underlined):

Part 1.6.12.4.1 Identify if each proposed discharge location ~~and/or~~ area-of-operation overlaps with other discharge locations or areas-of-operation that the permittee or the permittee's responsible party has applied for or been approved for. ~~any of the permittee's or permittee's parent company's own applied for or approved discharge location(s) and/or area(s) of operation.~~

The Department has noted the subsequent comment and will consider the revision of the requirements in Part 1.6 and placement in the NOI Instructions in future permit development and reissuance. There were no revisions to the permit documents based on this comment.

4.9 Comment Summary

Comments were received stating that determining the water balance is often difficult, especially since most streams do not have meters. The commenter requested that language be added allowing the operator to submit pictorial descriptions of the nature and amount of any sources of water.

Response:

The Department added requested language to Part 1.6.14.2 as follows "if a water balance cannot be determined, the permittee may provide documentation to the Department to support the inability to determine and a pictorial description of the nature and amount of any sources of water and any collection and treatment measures."

4.10 Comment Summary

A comment was submitted requesting clarification to the limits which prompt the seafloor dive survey condition. The commenter recommends eliminating the 7 calendar day criteria, and retaining only the accumulative 168 discharge hours or 10 million pounds of seafood waste, before requiring the seafloor survey.

Response:

The Department has clarified the criteria that will initiate the seafloor survey requirement to note that a survey will be required after 7 consecutive days of processing at a discharge location, regardless of the number of hours processed during that 7-day consecutive stretch. Part 2.3.4.1 of the permit was broken down into Parts 2.3.4.1.1, 2.3.4.1.2, and 2.3.4.1.3 to provide clarification of what requirements must be met to trigger a seafloor survey. A seafloor survey will be required if any of the three criteria are met. The edits to this section are below:

2.3.4 Seafloor Survey Monitoring Requirements

2.3.4.1 **Applicability.** A stationary vessel discharging seafood processing waste between shore and 3.0 nm from shore or baseline to depths of less than -120 feet MLLW shall conduct a seafloor survey whenever any of the following criteria are met:

2.3.4.1.1 Seafood processing occurs at a single discharge location for seven or more consecutive days in a calendar year, or

2.3.4.1.2 Seafood processing occurs at a single discharge location for greater than 168 hours cumulatively in a calendar year, or

2.3.4.1.3 Greater than 10 million pounds are discharged to a single discharge location.

2.3.4.2 Multiple vessels may be authorized at a single discharge location at the discretion of the Department. The Department will consider and restrict discharges after evaluating site-specific conditions, including location, cumulative amounts of discharge, flushing in the waterbody, etc.

2.3.4.2.1 A seafloor survey is required if multiple vessels from the same responsible party discharge to a single discharge location and the cumulative discharge amount is greater than 10 million pounds.

The Department also removed the term “GIS” from Part 2.3.4.2.2 (now Part 2.3.4.3.2), as this term was added in error.

4.11 Comment Summary

It is unclear how an operator will determine if a ZOD is 0.75 acres to conduct annual seafloor surveys without first conducting surveys.

Response:

The Department has removed this section in Part 2.1.3.4.2.2. Seafloor Survey monitoring requirements are specified in Part 2.3.4 and Table 10.

4.12 Comment Summary

Several comments were received regarding Part 2.1.3.4.3 and a vessel's area-of operation. One commenter states there is no basis to restrict Inland Water Seafood Waste Discharge Vessels to 2.0 square nm. Another comment asked what 'previously' means in the context of a 'previous' approved location?

Response:

The Department requires the 2.0 square nautical mile area-of-operation size restriction in order to manage where inland water discharge vessels are authorized to discharge within a water body. Often, multiple inland water discharge vessels will seek authorization to discharge into the same area of the waterbody. In order to review the cumulative impact to the waterbody and manage overlapping discharge areas between different companies and permittees, the Department restricts the discharge size area to 2.0 square nautical miles. A permittee may request multiple area-of-operations for authorization per vessel, and a permittee may also request a point-to-point area-of-operation that has no length restrictions. The Department has added this language to the Fact Sheet in Part 3.1.3.1.1.2 for additional clarification.

A previously approved area-of-operation includes all areas-of-operation where the permittee has had authorization to discharge under an NPDES or APDES permit, regardless if the permittee discharged at those locations. The Department has added this language to the Fact Sheet in Part 3.1.3.1.1.3.

There were no revisions to the permit based on this comment.

4.13 Comment Summary

It is unclear how an operator will know that another operator has been authorized at an "overlapping" location unless ADEC notifies each operator. Seafloor surveys should be required based upon the amount of waste discharge, not just the fact that multiple discharges happen to be authorized at the same location, especially if there have not been multiple operators discharging in overlapping locations.

Response:

The permittee may utilize the Department's online seafood web map to determine other processors that are authorized to discharge at a potentially overlapping location. They may also contact the Department to verify any overlapping approved locations. Seafloor surveys are only required at the overlapping discharge locations if multiple operators actually discharge at the overlapping location.

The Department added clarification to permit Part 2.1.3.4.2.5.1 that if the permittee discharges at an overlapping discharge location (with their own approved location) the permittee will be required to perform seafloor monitoring in compliance with Part 2.3.4 at the overlapping discharge location. Other monitoring may be required as requested by the Department, including if the Department identifies overlapping areas with another Responsible Party's authorized location.

4.14 Comment Summary

Comments were received regarding the seafloor survey schedule and the time and methods used to perform the survey. Two commenters requested 90 days or more in which to complete the seafloor survey, and one stated it is not possible to request a date 3 months in advance of needing a seafloor survey. One commenter stated that there are other methods of seafloor surveys and they should not be limited to only dive surveys.

Response:

The permit only requires that the permittee document that services were requested 3 months in advance if the survey cannot be conducted within the 60 day time frame. The Department acknowledges the dynamic nature of the fisheries; however permittees should have a general idea of the time frame of certain fisheries, which in turn should allow for the advance notice of dive surveys to a company. The Department requires surveys to be conducted 60 days after cessation of discharge in order to adequately determine compliance with water quality criteria for residues in marine waters and document the boundaries of seafood waste coverage on the seafloor.

There were no revisions to the permit documents based on this comment.

The permit does not intend to require only dive surveys throughout the life of the permit. The language was updated in the permit to reflect this intent. Specifically, language in Table 10 was updated from 'Dive Survey' to 'Seafloor Survey'.

4.15 Comment Summary

One commenter suggests clarifying the procedure for a severed, failed or leaking discharge system into a step by step process. Also, the condition to not process delivered seafood after discovery of a damaged outfall should be removed.

Response:

Part 2.1.4.2 restricts discharging seafood accepted after identification of the severed, failed, or leaking discharge system. It does allow the permittee to continue processing seafood delivered prior to discovery of the damaged outfall system (product that has already been offloaded to the vessel). Part 2.1.4.2 prohibits the vessel from processing seafood accepted after identification of a severed, failed or leaking discharge system.

The Department has made organizational edits to Part 2.1.4.2 to clarify the steps a permittee shall take regarding a severed, failed or damaged system, and removed redundancy (additions are underlined below).

Part 2.1.4.2 Severed, Failed or Damaged System. A permittee shall cease discharging from a severed, failed, or leaking discharge system ten days past discovery of the severance, failure or damage, unless repairs to the discharge system have been completed, with the allowance of enough time to process seafood already offloaded to the vessel. Seafood product that has been accepted after the identification of the severance, failure or damage may not be processed such that it results in a discharge from the damaged system(s). Discharging shall be discontinued if the system is unable to be repaired within 10 days. Seafood product that has been accepted after the identification of the severance, failure or damage may not be processed such that it results in a discharge from the damaged system(s); this type of discharge is not authorized by the permit. Any failure of the discharge system shall be reported to DEC in accordance with Appendix A, Part 3.4 (Twenty-four Hour Reporting), except reporting of grind size.

4.16 Comment Summary

Requiring a specific action when 10 or more pieces of seafood waste exceed the ½ inch limitation is arbitrary and capricious. If grinders are being used, specifying that 10 pieces determines the lack of proper operation for the variety of grinders being used to achieve the permit limitation of discharge solid size is inappropriate. Part 2.1.4.4.1 should be removed.

Response:

The Department has reviewed the suggested edits and has revised Part 2.1.4.4. Changes have been made to this Part requiring an inspection of the treatment system, rather than the grinder system and specifying the inspection ensures permit limitations are being met. Part 2.1.4.4.1 has been removed and incorporated into Appendix I.

The Department maintains the threshold criteria of pieces to determine corrective action to ensure the proper operation and maintenance of the waste treatment system, and has included this in the Appendix I. The Department has determined that 10 pieces demonstrate that corrective action should occur and must be noted on the inspection log. Ten or more pieces of seafood waste exceeding the ½ inch limitation is not a permit limit, it is simply a threshold for implementing corrective action on a treatment system that may not be fully operating as designed or under functioning.

4.17 Comment Summary

Comments were received concerning digital photographs required of the waste treatment system while seafood waste discharge is occurring. Comments included requiring the photographs only be taken when discharge occurs for at least 24 hours and reducing the frequency to once per quarter, similar to the AKG524000 EPA permit. Clarification was also requested what digital photographs are required by the conditions in Part 2.1.4.6.

Response:

Monitoring frequencies are based on the nature and effect of the pollutant, as well as a determination of the minimum amount of monitoring necessary to adequately monitor the facility's performance. The Department has determined the once per month photograph frequency be the minimum amount necessary to adequately monitor the performance of a seafood processor authorized by the general permit.

The Department has included a reference to Part 2.1.4.5 in order to clarify which photographs shall reported in the Non-Compliance Summary Inspection Report as found in Part 2.1.4.6.

4.18 Comment Summary

A comment was received recommending that if 'living substrate' does not include bivalve communities (such as clam beds) these areas should be included as a Special Water Resource in the permit. The commenter additionally requested if the permit can describe how a processor determines if they are discharging at or near 300 feet of living substrates.

Response:

See the 'Living Substrate' definition in Appendix C, which includes a definition of what may be included in this category, including bivalve communities. Guidance to determine 'living substrate' areas is also provided in Appendix C.

There were no revisions to the permit documents based on this comment.

4.19 Comment Summary

Comments were received regarding the closure of Norton Sound critical habitat from June 24 – October 31. The commenter requests that the closure be adjusted to August 15 – October 31, to allow for salmon processing within the critical habitat.

Response:

The permit does not authorize discharges into Norton Sound critical habitat from June 24 – October 31. The U.S. Fish and Wildlife Service has designated critical habitat in Norton Sound, Alaska for the spectacled eider, who are listed as threatened under the federal Endangered Species Act. Proposed rules to designate critical habitat were published by U.S. Fish and Wildlife on February 8, 2000, with a 231 day comment period following publication of the proposed rules. U.S. Fish and Wildlife evaluated all comments and developed the final critical habitat determinations signed January 10, 2001. The U.S. Fish and Wildlife Service would have to change their designation and criteria in order for the Department to incorporate them into an ADPES permit.

There were no revisions to the permit documents based on this comment.

4.20 Comment Summary

A comment was received that suggests the permit not use the term “trained individual” unless ADEC provides the training requirements. The commenter suggests stating that the operator must have an individual capable of identifying.

Response:

The Department’s intent is that the operator provide training to the individual performing the observations so they have the necessary knowledge and skills to identify the listed endangered and threatened species. This Part requires that the Operator train the individual so they can properly identify the listed and threatened species. The Department has reworded Part 1.8.4.2.1 to clarify.

4.21 Comment Summary

A comment was received regarding the physical separation prior to discharging live tank water, catch transfer water, etc. In certain circumstances this process could endanger the safety of the vessel crew and require extensive reconfiguration of waste water systems. DEC has indicated that the basis of this requirement is EPA’s Vessel General Permit (VGP); however, the VGP provides for some exceptions to this requirement. This Permit should incorporate the same exceptions.

Response:

The Department reviewed the language found in the EPA’s VGP and has added safety exemption language as Part 2.1.5.3.2 of the permit. The following language was added:

2.1.5.3.2 If safety and/or stability impediments occur prohibiting the removal of waste solids prior to discharge of “Other Wastewaters”, the permittee must provide documentation to the Department that the routing required in Part 2.1.5.3 would interfere with the safety and stability of the vessel and the safety of the crew and passengers. The permittee shall maintain a log onsite of occurrences of safety and/or stability impediments and shall submit documentation with the Annual Report (Part 3.3).

5 Part 2.0, Limitations and Requirements

5.1 Comment Summary

Comments were received addressing the monitoring and reporting required in Excluded Areas, including species identification and those listed under the ESA. The monitoring section should include reporting requirements if a nuisance discharge occurs. Sea surface monitoring should also include observations of all ESA-listed species, including whales.

Response:

Changes were made to the monitoring and reporting sections in 2.3.5.3 to include all species listed under the Endangered Species Act (which includes whales). Permit Part 2.3.5.3.1.4 and Permit Part 3.3.6.4 was updated to include reporting of spectacled eiders along with Steller's eiders.

As mentioned in Part 2.1.6, if a nuisance situation occurs, BMPs shall be developed and implemented per permit Part 3.2. The permit does not contain a metric for reporting when a nuisance discharge occurs.

There were no revisions to the permit documents based on this comment.

5.2 Comment Summary

A comment was received suggesting that the permit give a standard exemption from the seafloor survey requirements for areas where visibility is too low to conduct a survey.

Response:

As discussed in the 4.14 Comment Response and in Part 4.4 of the Fact Sheet, the permit does not require a dive survey as the only approved methodology. The survey may not necessarily need to be performed using a diver; alternate methods may be proposed and approved by the Department as specified in permit Part 2.3.4.6. The permit does allow a permittee to apply for a modification in the frequency of monitoring as specified in permit Part 2.3.4.10.

There were no revisions to the permit documents based on this comment.

5.3 Comment Summary

Comments were received regarding the ½ inch grind size requirement. Specific comments included industry's inability to achieve complete compliance with the requirement, compliance with the standard should be technology based (as long as the operator has the installed technology and demonstrates it is working, they should be considered in compliance), and complete removal of the grind size requirement from APDES permits should EPA remove the grind requirement in their AKG524000 Offshore permit.

Response:

The AKG524000 permit is a general permit for offshore seafood processing vessels operating greater than 3.0 nautical miles from shore, which operate in different conditions than vessels authorized under the AKG523000 permit. See also Fact Sheet 3.1.1.1 for an explanation of the effluent limitation guidelines (ELG) requirements in 40 CFR 408 applicability.

The federal regulation at 40 CFR § 122.44(a) requires APDES permits to incorporate technology based effluent limitations and standards promulgated under section 301 and 306 of the CWA. Technology based effluent limitations and performance standards have been established by the

EPA for remote seafood processors in Alaska, and were developed based on the demonstrated performance of a reasonable level of treatment that is within the economic means of the industry. See 40 CFR Part 408. The ½ inch size, in all dimensions, is a technology-based effluent limit and the discharge must meet this limit at all times. The development documents for 40 CFR Part 408 were published in the 1970's and 1980's and may be found at: <https://nepis.epa.gov/> EPA document number 440175041A.

The Department has determined through Best Professional Judgement (BPJ) that the ELG requirements in 40 CFR 408 are applicable to all seafood processors operating remotely in State of Alaska waters. Seafood processors operating both onshore and offshore perform similar seafood processing operations, including discharging into similar types and conditions of water bodies. As such, both types of processors must meet the requirements in 40 CFR Part 408, adopted by reference at 18 AAC 83.010.

The Department cannot modify or remove a technology-based requirement through a permit. The complete removal of the grind size requirement as suggested would require a change to the national effluent limitation guidelines. Requests to revise effluent limitation guidelines may be submitted to the Office of Science and Technology at EPA Headquarters. If EPA removes the grind size requirement from their AKG524000 general permit re-issuance, justification for the removal will be provided by EPA in the AKG524000 Fact Sheet.

There were no revisions to the permit documents based on this comment.

5.4 Comment Summary

Comments were received regarding the inclusion of “Other Wastewaters” monitoring in the permit. One comment stated that historically the Department has considered “other wastewaters” insignificant; another stated that no general permit since the beginning of the permitting program has imposed such requirements. Testing these waters seems to be unnecessary, and if required, it should be a one-time test. One comment requested that the “Other Wastewaters” monitoring study be conducted during the second year of the permit to allow operators to prepare for the monitoring. A comment was also received suggesting a sampling frequency reduction be available from Part 2.1.5.4 if an operator implements BMPS that document sufficient evidence that no discharge solids or exceedance are observed.

Response:

The discharge of non-contact cooling water, retort water, and boiler water may have the potential to exceed water quality standards (WQS), such as affecting the temperature of the receiving water. Process wastewaters and those that come into contact with seafood, like live tank waters and catch transfer waters may create foam and scum on the surface of the water, which result in non-compliance with the WQS residue narrative. These other wastewaters may also contribute to increased ammonia concentrations, high biochemical oxygen demand (BOD) levels and depressed dissolved oxygen. The Department has proposed a one-year monitoring study to collect a robust data set for evaluation and future potential permit limit development and mixing zone modeling efforts. There were no revisions to the permit documents based on this comment.

The Department acknowledges the concern with beginning the monitoring study in the first year of the permit, and has changed the monitoring to commence in year 2 of the permit. Part 2.2.9.1 was updated to state the second calendar year of the permit, January 1 through December 31, 2020.

In Part 2.1.5.4 of the permit, the Department requires daily sampling of “Other Wastewaters” that come into contact with seafood waste to determine compliance with seafood waste size limitations in the permit. A sampling frequency reduction, waiver or allowance to only sample when discharges occurs for at least 24 hours would not allow the permittee to demonstrate compliance with the permit limitations. There were no revisions to the permit documents based on this comment.

Please see the definition of process, non-process and other wastewaters in Appendix C, which include the ‘Other Wastewaters’ listed in Part 1.6.11.

5.5 Comment Summary

Comments were received regarding the restriction of discharges within 0.25 nautical miles (nm) of shore. A comment stated that Part 2.1.3.3.1 is unclear. Another comment stated if discharges to a specific area less than 0.25 miles from shore have resulted in negative impacts, then appropriate limitations on the amount of discharge should be made in the authorization. A comment also suggested changing wording requiring a specific notation in the captain’s logbook- it should be saved in a log, but not necessarily the captain’s log.

Response:

The Department’s intent is to not allow discharges within 0.25 nm of shoreline, with 2 exceptions. The Department will allow dischargers who have previously established permanent moorings at the time of permit issuance, or who can demonstrate there are safety concerns due to adverse weather or sea conditions. The Department has reviewed and revised Section 2.1.3.3.1 to provide clarity. If the Department does authorize a discharge location within 0.25 nautical miles of shoreline, the Department may place appropriate limitations on the amount and length of time of the discharge in the authorization or other appropriate limitations.

The Department has also removed ‘Captains’ from the log requirement as found in Permit Part 2.1.3.3.1.2.2. Changes to Section 2.1.3.3.1 are below (additions are underlined):

2.1.3.3.1 ~~In no case shall~~ Discharge shall not occur closer than 0.25 nm from shore measured at MLLW, unless:

2.1.3.3.1.1 ~~Unless~~ Stationary processing vessels can demonstrate previously installed and existing permanent infrastructure ~~exists~~ is present at the time of general permit issuance to anchor at that location; or

2.1.3.3.1.2 Stationary processing vessels can demonstrate that discharges ~~within 0.25 nm of shore~~ are necessary for the protection of the vessel and crew during adverse weather or sea conditions.

2.1.3.3.1.2.1 A permittee shall request authorization for all locations closer than 0.25 nm from shore in their Notice of Intent (Part 1.6). Discharges at those locations will be prohibited unless the permittee demonstrates circumstances in Part 2.1.3.3.1.1 or Part 2.1.3.3.1.2.

2.1.3.3.1.2.2 Discharges within 0.25 nm of shore must be documented in a ~~captain’s~~ log, including the daily discharge coordinates, daily amount of discharge, and the circumstances requiring discharge in the area. The log shall be submitted with the Annual Report (Part 3.3).

The Department provides the basis for the restriction of discharge within 0.25 nm of shoreline below. The basis for restriction is as follows (as discussed in Fact Sheet Part 1.3.2):

1. The Department reviewed monitoring logs submitted by seafood processing vessels during the 2011-2016 permit cycle. A number of mixing zone violations were reported with ranges of 500 – 2500 feet, which exceed 0.25 nm in length (0.25 nm = 1320 feet). Thus, if anchored within 0.25 nm of the shoreline, the vessel's exceedance could reach the shoreline.
2. The Department received a number of complaints documenting seafood processing waste washing up on the shoreline adjacent to locations where seafood processing vessels were anchored within 0.5 nm of shoreline.
3. The Department notes that while offshore seafood processors are required to meet the same treatment requirements as onshore facilities, they have the following difference. Onshore facilities discharge through an underwater outfall pipe that is required to reach a depth of -60 feet MLLW or deeper, whereas seafood processing vessels are required to discharge seafood processing wastes at or below the sea surface.

5.6 Comment Summary

Limiting the discharge from the production of stickwater and washed mince/paste to more than 1 mile has no clear documentation of negative impact, just a long term assumption. Fish Meal plants reduce the total amount of waste discharge. The stickwater discharge can have high BOD, TSS, and temperature, but there is not clear documentation that a discharge into the types of energetic waters authorized by the permit will have a negative impact beyond the boundary of the authorized mixing zone. In those cases, an operator would need to apply for an individual permit. Due to the restrictive conditions in the permit, these conditions could limit an operator from utilizing such by-product processes. The commenter also suggests inserting a definition of the term "by-product" in Appendix C.

Response:

As discussed in Fact Sheet Part 3.1.3.1, the basis for the prohibition of the discharge of effluents from stickwater and washed mince and/or paste is that the high levels of BOD that characterize this wastewater may depress dissolved oxygen in the water column. These high pollutant loading effluents require discharge at a greater distance from shore for adequate flushing and dilution to meet WQS at the boundary of the mixing zone. The AKG52000 and 2011 AKG523000 permits both prohibited these types of discharge within 1 nautical miles of shore, and this re-issued AKG523000 permit continues that prohibition.

Over the past decade, the Department has noted that water bodies have recovered where onshore facilities are transporting stickwater to discharge greater than 1.0 nm from shore. If seafood processing vessels develop a data set for stickwater and washed mince and/or paste discharged 1 nm from shore documenting the impacts of the discharge to the receiving water, it may be submitted to the Department for review during the next permit reissuance development.

The Department refers the commenter to Part 3.1.3.1 of the Fact Sheet. A definition of Seafood By-Product is located in Appendix C.

There were no revisions to the permit documents based on this comment.

5.7 Comment Summary

Part 2.1.7 refers to fishmeal and fish oil production as treatment processes. Fishmeal and fish oil production are from seafood products and are not treatment processes.

Response:

Part 2.1.7 has been reworded to state that fishmeal and fish oil are seafood products.

5.8 Comment Summary

The state mixing zone regulations provide that mixing zones can be much larger than the permit-defined standard mixing zone of 100 foot radius centered at the discharge terminus. The provisions of the permit do not provide a mechanism for requesting a larger mixing zone, although this is mentioned in the Fact Sheet. There is no reason why a permittee with an existing standard mixing zone should not be allowed to seek a larger mixing zone under the same protocol, without requiring that permittee apply for an Individual Permit.

Response:

The Department reviewed the available data submitted by permitted facilities and exercising the discretion granted in 18 AAC 70.240, the Department has determined that the available information reasonably demonstrates that a 100 foot standard mixing zone will protect the existing uses of the receiving water. After the 5-year 2011 AKG523000 permit cycle the Department reviewed and attempted to validate and refine the general permit-defined standard mixing zone size. However, because of the inconsistency of the quality of monitoring data, the limited size of the data set, and the lack of demonstrated pollutant trends between effluent and receiving water samples, this dataset does not provide reliable, repeatable data to perform updated mixing zone modeling. Therefore, the general permit continues to authorize only a general permit-defined standard mixing zone of 100 feet, or smaller.

There is no provision in the permit or discussion in the Fact Sheet that explains that a permittee can propose a larger mixing zone or a mixing zone for additional parameters listed in the Fact Sheet by performing a reasonable potential analysis. The permittee may apply for an individual permit should they request a larger mixing zone or parameters not authorized in the permit.

There were no revisions to the permit documents based on this comment.

5.9 Comment Summary

Comments were received regarding effluent and receiving water monitoring. One commenter requested that allowances outside of the 12 hour sample collection period be given to allow for a period to obtain a representative sample. A comment was also received that suggested adding the requirement that receiving water monitoring only occur for quarters which there is discharging occurring. The commenter also suggests the mid depth sample should always be taken at a maximum depth of 60 feet.

Response:

The Department does not provide an allowance for conducting effluent and receiving water monitoring more than 12 hours apart. While the sample may be collected at representative times of production, the receiving water conditions may differ between times of sample collection. Twelve hours is the longest allowance the Department has determined to grant between effluent and receiving water sample collection to adequately assess representative samples and the effluent impacts on the receiving water. The Department's 12 hour sample collection period

intends to minimize the variability in receiving water conditions between the effluent and receiving water sample collection period, with conditions including varying tide cycles, weather, wind, and current patterns. While the Department understands that the permittee can collect samples during times of comparative production rates and flow while seafood processing and discharging is occurring, the conditions of the receiving water are not replicable.

There were no revisions to the permit documents based on this comment.

Language was added to the permit/Table 7 requiring receiving water sampling only during quarters in which seafood waste discharge was occurring. The Department did not update the mid-depth sample language as suggested, as the mid-depth sample shall be representative of the depth of the actual discharge location, which may be shallower than -60 feet MLLW as authorized by a waiver under the permit.

6 Part 3.0, Other Permit Requirements

6.1 Comment Summary

Several comments were received recommending that the Department include language in the BMP Part to provide guidance on BMPs specific to preventing nuisance discharges. Guidelines or standards on what is considered a nuisance discharge may be beneficial to include for consistent interpretations by industry, agencies and the general public.

Response:

The Department provides a definition of nuisance discharge in Appendix C, which provides an example of an attractive nuisance. This definition and example can be used as guidance to develop and implement BMPs.

The Department does not specify BMP's specific to preventing nuisance discharges. BMP's allow the permittee flexibility to propose the best resolution to their specific situation or discharge.

There were no revisions to the permit documents based on this comment.

7 Comments on the Fact Sheet, Appendices/Attachments

7.1 Comment Summary

One comment received noted that the Magnuson-Stevens Fishery Conservation and Management Act (MSA) does not require state agencies to consult with the National Marine Fisheries Service (NMFS) regarding any action that may adversely affect Essential Fish Habitat. The Fact Sheet incorrectly states the MSA does require a state agency to consult.

Response:

The Department corrected Part 5.9 Essential Fish Habitat to state that the MSA does not require state agencies to consult with NMFS.

7.2 Comment Summary

Comments were received that requested Excluded Areas and ESA-listed species information be clarified or updated in the Fact Sheet and maps/links found in Appendix G. Another comment requested that a link to Essential Fish Habitat be included in the Fact Sheet. Another commenter suggested that the list of various excluded areas could be listed in the Appendices, rather than the body of the permit.

Response:

Changes were made as suggested to Appendix G, including an updated map of Kachemak Bay Critical Habitat Area and updated hyperlinks in Section 12 and 13 of Appendix G to ensure the hyperlink takes the permittee to the correct management agency. ESA-listed species information has been updated.

DEC will consider the removal of the Excluded Areas in Part 1.4 and 1.8 and placement in the Appendices in future permit development and reissuance.

The Department included the following language in Part 5.9 of the Fact Sheet to include a link to Essential Fish Habitat:

“NMFS maintains the following information link for EFH text descriptions and maps:
<http://www.habitat.noaa.gov/protection/efh/newInv/index.html>.”

7.3 Comment Summary

Comments were received to include a discussion and/or edits of potential impacts to additional commercial and non-commercially important species and invertebrate communities in the Fact Sheet to address discharges within 1 nautical mile of shore.

Response:

These species have been discussed in the Ocean Discharge Criteria Evaluation (ODCE) dated September 29, 2010. Please reference this document for a more in-depth discussion of potential impacts.

There were no revisions to the permit documents based on this comment.

7.4 Comment Summary

A comment was received that recommended updating ESA-listed species information and clarifying language on the Distinct Population Segments (DPS) of humpback whales, Steller sea lions, and northern sea otter that are listed under the ESA.

Response:

The language in the last paragraph of Fact Sheet Part 4.2.3.2 was updated, as described below (additions are underlined).

“In 2016, the National Marine Fisheries Service identified 14 DPS of humpback whales, three of which are found in waters off the coast of Alaska: Western North Pacific DPS (endangered), Mexico DPS (threatened), and Hawaii DPS (not listed under the ESA). Additional cetaceans found in Alaskan waters currently identified as endangered species pursuant to the ESA include the following: blue, bowhead, fin, gray, humpback, North Pacific right, sei, and sperm whales. ~~There are no cetaceans currently identified as a threatened species.~~ The Western DPS of the Steller sea lion has been listed as an endangered species since 1997 and the southwest Alaska”

~~DPS of northern sea otters, both of which occur from southeast Alaska to the Bering Strait~~ are listed as a threatened species pursuant to the ESA. Both sea lions and sea otters occur from southeast Alaska to the Bering Strait. The short-tailed albatross is a marine bird identified as endangered while Steller's eider and spectacled eider are waterfowl presently identified as threatened. ~~The Snake River sockeye salmon and Snake River spring/summer and fall Chinook salmon are presently identified as endangered and threatened species, respectively.~~ Several salmonid species originating from streams in Washington, Oregon, Idaho, and California are listed under the ESA; these species' ranges may include marine waters off Alaska during their salt water phase. The discharge of offshore seafood processing wastes are not likely to adversely affect the following species: blue, bowhead, gray, fin, humpback, North Pacific right, sei and sperm whales, short-tailed albatross, and ESA-listed salmonids Snake River sockeye, and Snake River spring/summer and fall Chinook salmon. The Steller sea lion and northern sea otter may be impacted by attraction to seafood waste discharges putting them at risk for parasites or predation by other species, however, the dispersion of the wastes by offshore seafood processors should minimize these impacts and therefore Steller sea lion and northern sea otters are not likely to be adversely affected. The Steller's and spectacled eider have the potential to be impacted from increased localized populations of gulls and parasitic birds which may adversely affect breeding success, however, the dispersion of seafood wastes by offshore processors should minimize this impact and therefore Steller's and spectacled eiders are not likely to be adversely affected."

8 Additional Comments Received During Five-Day Applicant Review

During the five-day applicant review for the proposed final permit documents, the Department received additional comments from one commenter, Trident Seafoods Corporation, Inc. There was one new comment presented not associated with comments received during the public notice period that did not result in modifications to the Final Permit. There were also comments received during the five-day applicant review that reiterated concerns and comments submitted during the Draft Permit public notice that did not initially result in the Department making changes to the Proposed Final Permit and Fact Sheet issued for five-day applicant review. The Department did not modify the Final Permit and Fact Sheet based on the comments that were in character with, and an outgrowth of, the original comments received during the Draft Public Notice of the Permit and Fact Sheet as discussed below.

8.1 Comment Summary

State authorization is required for at-sea disposal as described in Trident's comments submitted during the 45-day public notice period. Trident faces a situation where at-sea disposal is not authorized under the AKG523 General Permit. To resolve this issue requires additional permitting action from the state or a clear legal determination from the State that the at-sea discharge of seafood processing waste to state waters is exempt from the requirements of AS 46.03.100. Lack of clear authorization or exemption leaves at-sea discharges beyond the baseline but within state waters unpermitted and would expose seafood processors to notices of violations, regulatory penalties, and third-party lawsuits.

Response:

The Department directs the commenter to the comment submitted during the Draft Public Notice of the Permit and Fact Sheet and the response found in Part 4.2 of this RTC document. The Department does not have the authority to regulate at-sea discharge beyond the baseline under the APDES program as this is outside of State jurisdiction. U.S. Federal and state governments exercise independent and overlapping authorities within 0 to 3.0 miles from shore and the MPRSA is one such example. Specifically, MPRSA authority applies to "ocean waters", which are defined as "those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone."

33 U.S.C. 1402(b). In other words, EPA has ocean dumping authority under the MPRSA in all waters seaward of the baseline, irrespective of whether they are federal or state waters.

The States Rights Preserved provision at 33 U.S.C 1416(d) allows a state to “adopt or enforce any requirements” that may apply to ocean dumping in ocean waters that fall within state jurisdiction. This provision may allow a state to impose conditions on ocean dumping that occurs in state waters, through a CWA Section 401 certification for example, but it does not provide the State with permitting authority over ocean disposal of seafood waste.

Application of the MPRSA’s “fish waste exclusion” from permitting requirements is determined on a case-by-case basis by EPA. For example, under the MPRSA, an ocean dumping permit may be required for seafood wastes “when deposited in harbors or other protected or enclosed coastal waters, of where the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific location” 33 U.S.C 1412(d). As such, an entity seeking authorization for the ocean disposal of fish wastes must contact the Region 10 Ocean Dumping Program so the appropriate approach can be determined. More information including who to contact can be found on EPA’s webpage for managing ocean dumping in Region 10: <https://www.epa.gov/ocean-dumping/managing-ocean-dumping-epa-region-10>

There were no revisions to the permit documents based on this comment.

8.2 Comment Summary

Incidental vessel discharges are not included in the list of discharges covered. Incidental discharges are not authorized under the Vessel General Permit for a vessel used as a seafood processor (VGP Permit part 1.2.3.1) or under the final proposed AKG523000 general permit leaving a gap in authorization of discharges. This gap in permit authorization would leave seafood processing vessel incidental discharges unpermitted and would expose seafood processors to notices of violations, regulatory penalties, and third-party lawsuits.

Response:

The Department directs the commenter to the comment and response found in Part 4.4 of this RTC document. This is a reissuance of the AKG523000 General Permit that only includes incidental discharges resulting from normal seafood processing operations. The AKG523000 General Permit was not developed to cover all vessel incidental discharges, as the Department does not have data providing the specific pollutants of concern contained in these incidental discharges. The list of incidental discharges that the commenter is requesting are covered under the VGP when the vessel is not operating as a seafood processing facility, and DEC encourages the vessel to hold those incidental discharges until seafood processing activity ceases and the vessel is underway. The Department maintains that incidental discharges not resulting from normal seafood processing operations as listed in Permit Part 1.6.11 will not be covered under the AKG523000 permit.

There were no revisions to the permit documents based on this comment.

8.3 Comment Summary

Trident strongly recommends revising the criteria for conducting seafloor visual surveys to be aligned with the potential for seafood waste deposition by using total mass discharged, rather than number of processing days or hours. The mass of seafood waste discharged is directly related to the potential for seafood waste deposition, while the number of consecutive processing days and number of hours of processing are not directly related to potential seafood waste deposition.

Response:

The Department directs the commenter to the comment and response found in Part 4.10 of this RTC document, as well as Fact Sheet Part 4.4. The Department has retained the original seafloor survey triggers as found in the 2011/2012 issuance of the AKG523000, with the addition of the 10 million pound discharge trigger. The Department is concerned with the continual deposition of

seafood waste that can accrue at discharge locations based on the length of time spent discharging at a single discharge location, as well as the mass of waste discharged. The Department has reviewed the annual reports of vessels discharging under the AKG523000 general permit. On average, seafood processing vessels discharge from 30,000 to 80,000 pounds per day. The maximum amount of seafood processing waste reported on a daily basis in 2017 was approximately 175,000 pounds per day. The largest cumulative amount of discharge at one single discharge location was reported at around 2.2 million pounds, over a span of processing days. Based on the analysis of the 2017 annual reports, it appears that processing vessels are on average discharging 70,000 pounds per day for an average of 10 days per location. This data supports the Department's decision to continue the inclusion of the seafloor triggered by the number of consecutive processing days and number of hours on location, as cumulative discharges over a period of time represents the current operational patterns of the average seafood processing vessel.

The Department will use the seafloor surveys submitted during this permit cycle to evaluate the trigger mechanism and seafloor survey requirements currently implemented in the permit.

There were no revisions to the permit documents based on this comment.

8.4 Comment Summary

The prohibition on discharge of stickwater in waters less than 1 mile from shore represents a barrier to processing residuals into fish meal plants on vessels. Being at least 1 mile away from shore increases the potential impacts due to weather and waves. Trident requests that DEC replace the stickwater discharge prohibition with monitoring requirements and supporting information from the permittee to ensure that stickwater discharge does not have an adverse impact on the specific receiving waterbody.

Response:

The Department directs the commenter to the comment and response found in Part 5.6 of this RTC document. The Department does not currently have the data to support removing the prohibition of the discharge of the stickwater within 1.0 nm of shore. If seafood processing vessels develop a data set for stickwater and washed mince and/or paste discharged 1 nm from shore documenting the impacts of the discharge to the receiving water, it may be submitted to the Department for review during the next permit reissuance development. The Department will review this prohibition during the next permit reissuance and evaluate any data compiled during the next permit cycle.

There were no revisions to the permit documents based on this comment.

8.5 Comment Summary

The proposed final APDES AKG523000 permit states that if DEC identifies that more than one permittee has co-located processing vessels, then DEC may require that a visual seafloor survey be performed. To avoid potential for future confusion and conflict, DEC should clarify who would be responsible for conducting the visual seafloor surveys in cases when multiple permittees are operating in the same area.

Response:

The Department directs the commenter to the comment and response found in Part 4.13 of this RTC document. Each of the cumulative situations requiring a seafloor survey may be different. As such, the Department on a case-by-case basis, will notify all permittees that have contributed to the cumulative discharge at the single processing location of the requirement to perform a seafloor survey. The permittees may propose how to fulfill the survey requirement, either separately or in conjunction with other permittees, and may submit a proposal for approval to the Department.

There were no revisions to the permit documents based on this comment.

8.6 Comment Summary

Ammonia is missing from two key location in the proposed final permit, as described below.

- 2.3.1.2.3 *List of parameters that DEC may authorize to exceed water quality criteria within the mixing zone*
The list includes all parameters that are specified for effluent monitoring in Section 2.2, except for total ammonia. The exclusion of ammonia is likely an oversight. Ammonia should be added to the list in Section 2.3.1.2.3 for consistency and because the effluent dilution provided in a mixing zone will likely be needed to achieve water quality compliance for ammonia.
- Table 11. Receiving Water Numeric Criteria and Narrative Standards- ammonia criterion is missing (p. 39). Table 11 provides water quality criteria for all of the parameters requiring effluent monitoring in Section 2.2, except for total ammonia. This is likely an oversight and should be corrected by adding the water quality criterion for ammonia to Table 11.

Response:

The Department directs the commenter to Part 3.2.1 of the Fact Sheet, which discusses the inclusion of ammonia monitoring in the reissued AKG523000 permit. The Department is requiring monitoring for ammonia to determine if ammonia is a pollutant of concern in the Outfall 001 seafood waste and wastewater stream and non-commingled “Other Wastewaters” effluent. Ammonia was not included in the original mixing zone modeling performed for the general permit defined standard mixing zone, and additional modeling has not been performed to include ammonia as an approved parameter to exceed water quality criteria within the mixing zone in this permit re-issuance. Lastly, ammonia is a calculated criteria that would require supporting receiving water data, which the Department does not currently possess. The Department has not included ammonia as a parameter that may exceed WQS in a mixing zone, but will review the monitoring data submitted during the permit cycle and evaluate if ammonia is a pollutant of concern in the next permit reissuance.

There were no revisions to the permit documents based on this comment.