

**Department of Environmental Conservation  
Response to Comments**

**For**

**Seafood Processors Operating Onshore Facilities in  
Kodiak, Alaska General Permit**

**APDES Permit No. AKG528000**

**Public Noticed September 13, 2019 –  
November 13, 2019**

**September 30, 2020  
(Revised December 15, 2020)**



**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 reissue an Alaska Pollutant Discharge Elimination System (APDES) general permit to operator(s) or owner(s) of onshore seafood processing facilities located in Kodiak, Alaska that discharge seafood processing waste and wastewater to waters of the U.S. The permit authorizes discharges to several receiving waters, including Kodiak Harbor, St. Paul Harbor, Gibson Cove, Near Island Channel, Women's Bay, and Woody Island Channel. The permit is the reissuance of AKG528000, previously issued on March 16, 1998.

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 (BMPs) to which the facility must adhere, and requires effluent and receiving water monitoring. Applicants may also request mixing zones for each outfall.

### 1.2 Opportunities for Public Participation

DEC proposed to reissue an APDES wastewater discharge general permit, *Seafood Processors Operating Onshore Facilities in Kodiak, Alaska 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 March 15, 2018
- posted a preliminary draft of the permit online for a 10-day applicant review March 22, 2019 and notified tribes, local government(s) and other agencies
- formally published public notice of the draft permit on September 13, 2019 in the Anchorage Daily News and the Kodiak Daily Mirror and posted the public notice on the Department's public notice web page
- formally published an extension of the public notice period for the draft permit on October 1, 2019 in the Anchorage Daily News and the Kodiak Daily Mirror and posted the public notice extension on the Department's public notice web page
- posted the proposed final permit online for a 10-day applicant review on February 24, 2020
- sent email notifications via the APDES Program Listserv 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 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 did not receive comments from any government agencies.

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 September 30, 2020. 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**

### **2.1 Comment Summary**

Comment was received that some of the processing facilities in Kodiak would be more appropriately regulated by an individual permit instead of a general permit.

**Response:**

As discussed in the Fact Sheet Part 1.1, the Department determined under 18 AAC 83.205 that the Kodiak processing facilities are more appropriately controlled under a general permit than under individual permits.

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

### **2.2 Comment Summary**

Comment was received requesting a 24-month grace period to allow permittees to come into compliance with the permit's monitoring and reporting requirements. Comment was also received requesting that the Department set the final permit effective date to allow sufficient time for the mixing zone evaluation process to be completed prior to the effective date.

**Response:**

The Department will not allow a blanket grace period for permittees to come into compliance with the permit after issuance, but there will be a gap (delayed implementation) between the final permit issuance date and the effective date. Currently-covered permittees are required to submit a complete Notice of Intent (NOI) application by the effective date of the permit to continue coverage under this permit. Permittees may submit their NOI applications prior to the permit effective date to begin the mixing zone evaluation process.

There were no revisions to the permit documents based on these comments.

### 3 Discharges Covered or Not Covered, Notice of Intent (Part 1.2 – Part 1.4, Part 1.6)

#### 3.1 Comment Summary

Comment was received that the discharge outfall types on the permit cover page are not consistent with the covered discharge types listed in Part 1.2. The commenter requested that outfall numbers correspond to the covered discharges in Part 1.2 and be used consistently throughout the permit.

**Response:**

It is not the Department's intent for the outfall types on the cover page and the covered discharge types to correspond one-to-one. The outfall types (and numbers) on the cover page correspond to Table 3 – Table 8, which list the monitoring requirements for each outfall type. The numbering associated with each outfall type (and cross-referenced in the applicable table titles) is already consistent throughout the permit. The Department will review each facility's NOI for the covered discharges disposed of through each outfall and categorize the outfalls by the cover page outfall types, then assign each outfall a unique label in the written authorization to discharge. If there is more than one outfall at a facility corresponding to a single outfall number/type as listed on the permit cover page, outfalls will be differentiated by letters. For example, a facility may have multiple outfalls that fit into the type "Other Outfalls," listed on the cover page as Outfall 004. In that case, retort cooling water may be assigned the label Outfall 004A and catch transfer water (discharged other than through the main seafood processing outfall) may be assigned the label Outfall 004B.

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

#### 3.2 Comment Summary

Comment was received that Part 1.2 combines several discharge types with different effluent characteristics into single categories. The commenter requested that the discharge types under Part 1.2.1 be separated into separate categories, similar to how wastewater discharges from macroalgae processing and non-process wastewaters are listed out separately (as Part 1.2.2 and Part 1.2.3, respectively).

**Response:**

It is not the Department's intent for the Part 1.2 subparts to fully separate each covered discharge into each individual component of that waste stream that may have effluent characteristics different than other components of that waste stream.

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

### 3.3 Comment Summary

Comment was received that EPA does not approve disinfectants but rather registers them. The comment also noted that there are both state and federal food sanitation requirements, not just federal.

#### Response:

The permit language in Part 1.2.1.2 was clarified as suggested. The incorporated revisions are specified as follows (additions are underlined).

**Part 1.2.1.2:** Cleaning, disinfectant, and defoaming agents used in seafood processes where the permittee follows the manufacturer's 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 (FDA) sanitary conditions~~ applicable state and federal sanitation standards by facilitating waste removal while processing or sanitizing seafood processing areas.

### 3.4 Comment Summary

Comment was received requesting that the information outlined in the Fact Sheet Part 1.5.1 be incorporated into the permit to clarify that commingling seafood processing waste and wastewaters with industrial storm water is allowed as long as the commingled effluent stream is treated (screened) as required.

#### Response:

Part 1.3.6.1 and Part 1.3.6.2 were edited to specify that such commingling of waste streams is allowed. The AKG528000 permit only covers the seafood processing waste and wastewaters portion of such commingled effluent streams. Permittees choosing to commingle would still need to evaluate whether coverage under the APDES Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activity was needed for the industrial storm water portion of the commingled effluent stream. The incorporated revisions are specified as follows (additions are underlined).

**Part 1.3.6.1:** If the facility discharges industrial storm water to waters of the U.S., alone or commingled with seafood processing waste and wastewaters, the permittee shall determine whether the facility ~~needs to obtain~~ requires coverage under the APDES Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activity. The permittee shall identify the MSGP authorization number on the AKG528000 NOI (Part 1.6.2.6) or identify that the permittee has filed a MSGP No Exposure Certification.

**Part 1.3.6.2:** Discharge of commingled industrial storm water and seafood processing waste and wastewaters is allowed only if all commingled wastewaters are treated to 1.0 mm or less, per Part 2.2.5.2.

### 3.5 Comment Summary

Multiple comments were received regarding the prohibition on discharging waste and wastewaters from spoiled seafood. Commenters requested a clearer definition of what was considered spoiled seafood prohibited for discharge and also noted that discharging wastewaters associated with any form of product (spoiled or not) should be allowed as long as all permit conditions (effluent limits) are still met (all discharges are required to meet the pH limit of 6.5 – 8.5 SU).

#### Response:

The language was clarified in Part 1.4.1.1 and Part 1.4.1.2 to reflect that the prohibitions on discharge apply to “putrid, raw (non-processed) seafood” and also to “contaminated or unsold interim or finished seafood by-products (e.g., hydrolysate, fish meal, fish oil).” The definition of “spoiled seafood” in Appendix C was edited to encompass all of these materials. References to wastewaters associated with these materials were removed from the permit’s discharge prohibitions list and from the Appendix C spoiled seafood definition, as the Department determined that the discharge of wastewaters associated with spoiled seafood is not necessarily an upset condition unless that discharge causes exceedance of the permit’s effluent limit(s). The incorporated revisions are specified as follows (additions are underlined).

**Part 1.4.1.1:** Discharge of ~~spoiled seafood, or associated discharge of waste or wastewaters from~~ putrid, raw (non-processed) seafood. ~~putrid, contaminated, or unusable raw (non-processed) seafood.~~

**Part 1.4.1.2:** Discharge of ~~contaminated, spoiled,~~ or unsold interim or finished seafood by-products (e.g., hydrolysate, fish meal, fish oil).

**Appendix C:** Spoiled seafood ~~waste and wastewaters~~ means ~~those wastes and wastewaters associated with~~ putrid, raw (non-processed) seafood fish and other aquatic animals which had previously been intended for seafood processing, or contaminated or unsold interim or finished seafood by-products (e.g., hydrolysate, fish meal, fish oil) ~~and spoiled or unsold, hydrolysate, fish meal, fish oil.~~

### 3.6 Comment Summary

Multiple comments were received regarding the requirement to complete an antidegradation analysis to apply for a mixing zone. Comments included that the Tier 2 analysis is triggered by a new or expanded “discharge” (not a parameter), that it is inappropriate to specify a priori that the antidegradation analysis required will be Tier 2, and that 18 AAC 70.016(c)(3) provides some exclusions from a Tier 2 analysis.

#### Response:

When developing a permit, if the discharge will lower or potentially lower water quality of Tier 2 waters, the Department will conduct a Tier 2 antidegradation analysis for new or expanded discharges. A Tier 2 analysis is on a parameter-by-parameter basis. The definition of “new or expanded discharge” means, among other things, discharges that are regulated for the first time. Part 1.6.2.7.1 was clarified to reflect that the Tier 2 antidegradation analysis is required “for parameter(s) determined by the Department to meet the definition of new or expanded, including all parameters regulated for the first time.” The Fact Sheet Part 4.5 was edited to explain that “Regulated for the first time for the permit means a parameter that has an effluent limit which is not included in the general permit upon the effective date.” A parameter limited for the first time under the reissued permit (with water-quality based effluent limits associated with mixing zones that are higher than the water quality standards) represents an increase from a previously unpermitted parameter load or concentration, and these parameters do lower water quality. Therefore, a complete antidegradation analysis for each requested mixing zone parameter, including the range of practicable alternatives that have the potential to prevent or lessen the degradation associated with the proposed discharge [18 AAC 70.016(c)(4)], is required.

## 4 General Requirements, Part 2.2

### 4.1 Comment Summary

Comments were received requesting a 24-month time period allowance for the installation of flow meters and totalizers at existing facilities on all outfalls, including the main seafood processing outfall.

**Response:**

The only outfall that the permit requires to have a flow meter and totalizer installed as of the effective date of the permit is the main seafood processing discharge outfall (Part 2.2.1.2). Since flow through this outfall is required to calculate compliance with the numeric effluent limitation guidelines (ELGs) in the permit (Table 3 and Table 6), it is essential to have accurate flow data in order to evaluate and track permit compliance. Given the delayed permit effective date, the Department determined that it is reasonable to require that existing facilities have a flow meter and totalizer installed on their main seafood processing outfall line by the permit effective date. There were no revisions to the permit documents based on these comments.

### 4.2 Comment Summary

Comment was received requesting that language be added to the permit allowing permittees to estimate flow during periods when flow meters are not functional.

**Response:**

It is the permittee's responsibility, as described in Appendix A – Standard Conditions Part 1.6, to ensure that proper operation and maintenance is conducted in a way that achieves compliance with the conditions of the permit.

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

### 4.3 Comment Summary

Comment was received requesting revising Part 2.2.4.2 to begin monitoring and effluent limitations 60 days after a facility receives authorization to discharge, instead of upon the effective date of the permit. This change was suggested to align the start of monitoring with the date when permittees must have their Quality Assurance Project Plan (QAPP) implemented, so that permittees would have a QAPP compliant with the reissued permit in place in time to begin conducting the required monitoring.

**Response:**

Since there will be a gap between the permit issuance and effective date, there should be sufficient time for existing permittees to modify their QAPP to be compliant with the new permit requirements by the effective date of the permit. If not, though, permittees shall follow procedures in the facility's previous permit-required QAPP until the modified QAPP has been implemented (per Part 2.9.2).

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

#### 4.4 Comment Summary

Comment was received stating that requests for additional monitoring under Part 2.2.4.10 should be based on sound, scientific evidence and require DEC to demonstrate how and why the additional monitoring is needed to protect water quality standards (WQS) and endangered or threatened species.

**Response:**

In accordance with 18 AAC 83.425, the Department may establish conditions, as required on a case-by-case basis, to assure compliance with any applicable requirement of state law and the Clean Water Act (CWA).

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

#### 4.5 Comment Summary

Comments were received stating that DEC does not have the authority under the APDES permitting program to require monitoring or treatment of catch transfer water returned to vessels.

**Response:**

The Department has determined that once catch transfer water is conveyed to the shore-based processing facility from a vessel during seafood offloading, it becomes part of the facility's process wastewater, per 18 AAC 83.990(54): "*Process wastewater* means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product." APDES permits are required for the discharge of pollutants from any point source into waters of the United States. A point source, as defined at 18 AAC 83.990(48), includes a "vessel or other floating craft from which pollutants are or may be discharged." Pollutants may be discharged to waters of the United States from the vessel to which the facility discharges the catch transfer water. The shore-based facility's discharge of catch transfer water to a vessel after offloading is a point source discharge of process wastewater that includes pollutants and falls under the jurisdiction of the APDES program.

A definition for "catch transfer water" was added to Appendix C, matching the "Discharges Covered" language in Part 1.2.1.1. The incorporated revisions are specified as follows (additions are underlined).

**Part 1.2.1.1:** Catch transfer water (delivering vessel fish hold waste and wastewater, ~~including catch transfer water~~, live tank water, refrigerated seawater, or brine) conveyed to the onshore seafood facility.

**Appendix C:** Catch transfer water means waste or wastewaters conveyed to an onshore seafood processing facility from a vessel as part of the seafood offloading process. Includes fish hold waste and wastewater, live tank water, refrigerated seawater, and brine.

## 4.6 Comment Summary

Comments were received stating that the existing processing facilities do not currently have the capacity to treat all (or any) of the catch transfer water discharged to vessels after seafood offloading and that there would be significant expense and logistical challenge associated with achieving that capacity. One comment asserted that it is not clear what level, if any, treatment is necessary for catch transfer water (i.e., that establishing a treatment requirement before monitoring has been done is premature). Another comment asserted that treating the catch transfer water would be unduly expensive given the level of pollutants in that effluent, and that monitoring may not provide meaningful information.

### Response:

DEC acknowledges the industry concern that currently-installed seafood waste treatment pumps often do not function as designed when large hydraulic loads (such as catch transfer flows) are forced through treatment pump systems. Part 2.6.1 and its subparts were edited to allow that permittees without the existing capability to treat catch transfer water as required prior to discharging to the vessel can discharge this effluent to the vessel untreated but must still monitor the effluent as required by Part 2.6.2.2 and must submit a Catch Transfer Water Treatment Practicability Report to the Department within two years of the permit effective date. The Department will use the submitted reports, along with screened and unscreened effluent data, to determine whether screening is the best practicable control technology available for treating catch transfer water. This determination will consider all applicable evaluation criteria, in accordance with CWA Section 304(b)(1)(B). The incorporated revisions are specified as follows (additions are underlined).

**Part 2.6.1:** The permittee shall ~~establish BMPs for screening~~ treat any water that has come in contact with seafood at the facility (including catch transfer water discharged to a vessel after seafood offloading) to meet established requirements of Part 2.2.5.2 ~~for all other discharge outfalls, including any discharges from the facility other than from the main seafood processing outfall including fish hold waters sent back to vessels for discharge, where a facility is unable to send all discharge wastewaters through its seafood solids screening treatment system.~~ The permittee shall send the resulting screened/sieved seafood processing waste solids to a by-product recovery facility or dispose of them by other Department-approved methods. The BMPs shall include:

**Part 2.6.1.1:** ~~The use of a physical separation method to remove seafood waste solids prior to discharge to the vessels to meet established screening requirements of Part 2.2.5.2. This shall include screening live tank water, catch transfer water, and fish hold wastewaters, as these effluents often contain large solid pieces of seafood (e.g., small fish, fish heads, and internal organs) as well as other solids (e.g., fish scales). Sending the resulting screened/sieved seafood processing waste solids to a by-product recovery facility, or disposing of them by other Department approved methods.~~ If a permittee does not have the existing capability to treat catch transfer water as required by Part 2.6.1 prior to discharging to the vessel, the permittee may discharge this effluent to the vessel untreated but must still monitor the effluent as required by Part 2.6.2.2 and must submit a Catch Transfer Water Treatment Practicability Report to the Department within two years of the permit effective date. The report must evaluate various control techniques available and include the total cost of implementing and operating the control techniques evaluated as well as any other factors the permittee deems appropriate for Department consideration (e.g., engineering aspects, process changes, non-water quality environmental

impacts).

**Part 2.6.2.2:** ~~For fish hold wastewaters~~ Permittees must monitor catch transfer water returned discharged to a vessels for discharge, effluents must be monitored per Table 8, at a location prior to discharge to the vessel(s).

**Part 2.2.5.6:** ~~Permittees accepting a vessel's refrigerated seawater, fish hold water, or wastewater, even if discharging back to the vessel, Permittees are required to monitor catch transfer water conveyed to the onshore seafood processing facility are required to monitor the discharge~~ per Part 2.6 if not already monitored per Part 2.3.

## 4.7 Comment Summary

Several comments questioned DEC's authority to hold permittees responsible for vessel operators' actions. Comments were also received requesting that DEC develop industry standard BMPs for permittees to provide vessels discharging effluents at the facility.

### Response:

As discussed in the response to Comment 4.5, catch transfer water conveyed to a shore-based facility is considered part of that facility's process wastewater. The shore-based facility permittee can choose whether to discharge this catch transfer water back to a vessel after offloading. Permittees are also responsible for any other discharges that are made from vessels at the facility's dock(s) (whether catch transfer water or not). Discharges from a vessel operating in a capacity other than as a means of transportation, including when the vessel is secured to a seafood processing facility, are subject to regulation under the APDES permitting program (18 AAC 83.015(b)(1)(B)(ii)).

Part 2.6.1.1.1 – Part 2.6.1.1.3 were added to make clear that each shore-based permittee is responsible for ensuring that discharges at the facility, including from docked vessels, do not cause violations of the Alaska WQS. The BMPs necessary to ensure that WQS are met may be different for different facilities, therefore it is not appropriate for DEC to prescribe an "industry standard BMP" for docked vessel discharges.

Part 2.2.7.3 was removed, but the provision on providing educational materials to vessels regarding bilge water discharges was retained in Part 2.10.4.7.24.

The incorporated revisions are specified as follows (additions are underlined).

**Part 2.6.1.1.1:** The permittee must implement BMPs to minimize foam and scum produced by catch transfer water discharges, as required by Part 2.10.4.7.19.

**Part 2.6.1.1.2:** Catch transfer water discharges that cause a violation of the Alaska WQS are prohibited discharges (Part 1.4.1.8).

**Part 2.6.1.1.3:** The permittee must develop and implement mitigating BMPs if there are reoccurring sea surface residues violations at the facility (Part 2.2.5.5).

**Part 2.2.7.3:** ~~Permittees shall provide educational materials to vessels at the facility pertaining to minimizing the discharge of bilge water within the critical habitat area, unless it is for safety reasons, and using oil/water separators prior to discharge.~~

**Part 2.7.1.6:** The permittee shall record whether any ~~delivering fishing vessels' fish hold effluent~~ discharges are occurring from vessels at the facility during the sea surface observations.

#### 4.8 Comment Summary

Comments were received stating that pursuant to the Vessel Incidental Discharge Act of 2018 (VIDA), the discharge of catch transfer water by a fishing vessel to waters of the United States is exempt from federal and state permitting under the CWA. Other comments expressed confusion about why the Fact Sheet referenced permit conditions from EPA's Vessel General Permit (VGP) (2013).

**Response:**

As discussed in the response to Comment 4.5, catch transfer water conveyed to a shore-based facility is considered part of that facility's process wastewater. Additionally, per the response to Comment 4.7, discharges from a vessel operating in a capacity other than as a means of transportation, including when the vessel is secured to a seafood processing facility, are subject to regulation under the APDES permitting program (18 AAC 83.015(b)(1)(B)(ii)). Thus, both catch transfer waters that have been conveyed to a shore-based facility and discharged back to a vessel, as well as any discharges made from vessels at the facility's docks (whether catch transfer water or not), are subject to regulation through an APDES permit. VIDA only exempts small vessels and fishing vessels from state permitting for discharges that are "incidental to the normal operation of a vessel." Discharges resulting from normal seafood processing operations are not included in the VIDA exemption.

The Department determined that the discussion of the VGP in the Fact Sheet Part 1.4.3 was not relevant to the AKG528000 permit, so that discussion was removed.

#### 4.9 Comment Summary

Comments were received requesting clarity on whether the permit requirements relevant to vessels apply to all vessels or only to certain vessels (based on vessel size, vessel type, commodities delivered, etc.).

**Response:**

The permit does not differentiate requirements based on vessel characteristics. Permit requirements relevant to vessels apply to all vessels engaged in the activities discussed in the permit.

There were no revisions to the permit documents based on these comments.

#### 4.10 Comment Summary

Comments were received stating that metering the flow of catch transfer water discharged to vessels and the flow of non-process wastewaters is unnecessary and logistically challenging because the flows are often minimal and intermittent.

**Response:**

As discussed in the Fact Sheet Part 3.3.1, the flow volume from each outfall is required to accurately model the environmental impacts, and this information is also required to ascertain treatment practicability. However, the Department determined that estimating flow is sufficient for outfalls with intermittent flow. Table 8 (Other Outfall(s) Monitoring and Reporting Requirements) now includes the following allowance as Footnote e: “Catch transfer water flow discharged to vessels after offloading, and other flows that are intermittent, may be estimated instead of metered.” Part 2.2.1, Flow Meter and Totalizer Installation, was also edited to reflect this allowance. The incorporated revisions are specified as follows (additions are underlined).

**Part 2.2.1.1:** New Facilities/Outfalls. Installation and maintenance of effluent flow meters and totalizers are required at new facilities and for new outfall installations (except for those flows excluded under Table 8 – Footnote e).

**Part 2.2.1.2:** Existing Facilities. Existing permittees’ main seafood processing discharge outfall must have a flow meter and totalizer installed as of the effective date of the permit. For all other existing outfalls (except for those flows excluded under Table 8 – Footnote e), permittees must install and maintain effluent flow meter(s) and totalizer(s) within 24 months of the effective date of this permit, or sooner if modifications or installations of waste treatment systems occur.

#### 4.11 Comment Summary

Comments were received suggesting that the current permit limits should be stayed until mixing zone applications are processed, as otherwise permittees are at risk of being in violation of the permit immediately upon the effective date.

**Response:**

The current (effective 1998) permit clearly states in Part 3.8 that “all discharges shall be in compliance with Alaska State Water Quality Standards.” There are no water-quality based effluent limits (WQBELs) in the draft permit that are more stringent. Therefore, permittees will be no more at risk of being out of compliance with the WQBELs upon the permit reissuance than they are currently. There are technology-based ELGs in the draft permit that are more stringent than those in the 1998 permit, but technology-based ELGs are not eligible for mixing zones (as discussed in the Fact Sheet, Part 7.2.4).

There were no revisions to the permit documents based on these comments.

#### 4.12 Comment Summary

Comment was received requesting that additional time be allowed for permittees to comply with the discharge temperature requirements for retort cooling water to allow time for facility modifications that will be needed to attain compliance.

**Response:**

The current (effective 1998) permit clearly states in Part 2.4 that non-process wastewaters, including non-contact cooling water, may be discharged without treatment to the receiving water “provided that the discharges are in compliance with Alaska State Water Quality Standards.” The temperature limit in the draft permit is not more stringent than that. The Department will not edit the draft permit to provide a grace period for permittees to meet a standard that is in the permit currently in effect.

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

#### 4.13 Comment Summary

Comments were received noting that the surface water temperatures in the Kodiak area can be above 15 C (the WQS in the permit) and that the Department should consider establishing a site-specific criteria for temperature and reflecting that criteria in the permit, as receiving water monitoring showing temperature values above 15 C would leave permittees at risk of noncompliance.

**Response:**

The permit only establishes a temperature limit for effluent, not a limit applicable to receiving water samples. The receiving water monitoring data collected under the permit will be used not to ascertain a permittee’s compliance with permit conditions but rather to evaluate receiving water quality and the correlation between pollutants being discharged and the receiving water conditions, as discussed in the Fact Sheet Part 4.6. An applicant seeking a site-specific criterion under 18 AAC 70.235 would need to provide all of the information that the Department determined necessary to modify an existing criterion. The determination on modifying a criterion would be made by DEC’s Water Quality Standards, Assessment, and Restoration (WQSAR) group.

There were no revisions to the permit documents based on these comments.

#### 4.14 Comment Summary

Comment was received requesting clarification on the meaning of “new discharge” in regards to the stipulation in Part 2.2.7.5 that new discharges proposed to designated critical habitat area will be public noticed.

**Response:**

The applicable permit language (now Part 2.2.7.4) was edited to clarify that “a new outfall proposed to discharge in designated critical habitat area” will be public noticed. This aligns with the intent (reflected in the conditions in Part 2.2.3) that new outfalls be evaluated for location appropriateness in light of their potential habitat impacts. The incorporated revisions are specified as follows (additions are underlined).

**Part 2.2.7.4:** A new discharge outfall proposed to discharge in a designated critical habitat area will be public noticed in accordance with 18 AAC 83.120 requirements.

#### 4.15 Comment Summary

Comment was received requesting that the “nuisance discharge” definition in Appendix C be made consistent with the description in Part 2.2.9. The comment also questioned how the Department will objectively use the Part 2.2.9 criteria to determine that a discharge is a nuisance.

**Response:**

While the “nuisance discharge” definition in Appendix C and the nuisance condition description in Part 2.2.9 are not identical, they are not inconsistent. The guiding language in 18 AAC 70.020(20) does not provide additional clarity on deciding what constitutes a nuisance or an objectionable condition beyond the criteria already listed in the permit.

There were no revisions to the permit documents based on these comments.

### 5 Conventional or Mechanized Processing, Part 2.3

#### 5.1 Comment Summary

Comment was received that the commenter would prefer that instead of tracking each commodity line’s raw product processed daily, permittees be allowed to use monthly production data to calculate daily production averages. Commenter questioned the value added from tracking product processed daily.

**Response:**

The ELGs in the permit (Table 3) include daily maximum values. The units for these ELGs are pounds of pollutant per 1,000 pounds raw product processed (lbs / 1,000 lbs). As described in Appendix D, calculating the facility’s compliance with the ELGs requires the amount of raw product processed (total and for each commodity line) on each specific sampling date.

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

#### 5.2 Comment Summary

Comments were received stating that the requirement for permittees to include all species processed during a calendar month in at least one of the month’s sampling events under Table 4 would be too onerous, as some species may only be processed for a few hours in a month and the facility does not necessarily know when such species will be received (for sampling and analysis planning).

**Response:**

Part 2.3.6.2 was edited as suggested, to reflect that every commodity line processed “for at least 24 hours during the calendar month” must be represented in at least one of the month’s sampling events under Table 4.

#### 5.3 Comment Summary

Comment was received stating that the commenter does not currently have a way to segregate and measure waste production by species or processing method.

**Response:**

The permit does not require that seafood solids sent to by-product recovery be reported by species or processing method. Per Table 4, permittees must report the monthly total pounds of seafood solids sent to by-product recovery.

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

## 5.4 Comment Summary

Comment was received stating that facilities may not process for a full 24 hours at a time during some weeks, as processing may be intermittent, so the 24-hour composite sampling required in Table 4 and Table 5 would be inappropriate in those cases.

### Response:

The biochemical oxygen demand (BOD), total suspended solids (TSS), and Total Dissolved Solids sample type in Table 4, Table 5, and Table 7 was changed from “24-hr composite” to “composite.” The applicable table footnote was edited to reflect that “The compositing period shall be for 24 hours or for the total amount of time on the sampling day during which there is flow from the outfall. The composite sample shall consist of at least one equal volume aliquot per every full three hours in the compositing period.” The composite sample definition was revised as follows (additions are underlined).

**Appendix C:** Composite samples shall consist of ~~at least eight equal volume grab samples. 24 hour composite sample means a combination of at least eight discrete samples of equal volume collected at equal time intervals over a 24 hour period at the same location. A “flow proportional composite” sample means a combination of at least eight discrete samples collected at equal time intervals over a 24 hour period with each sample volume proportioned according to the flow volume.~~ at least one equal volume grab sample aliquot per every full three hours in the compositing period. The sample aliquots shall be collected, stored and analyzed within applicable hold times in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.

## 5.5 Comment Summary

Comment was received stating that in Table 3, the Department should retain the current permit’s ELGs for Conventional/Hand Butchered Bottom Fish. The commenter asserted that the rationale in the Fact Sheet Part 3.5, supporting the decision to retain the Mechanized Bottom Fish subcategory ELGs from the current permit, applies to the Conventional/Hand Butchered Bottom Fish subcategory too.

### Response:

The rationale provided in the Fact Sheet Part 3.5 supporting the decision to retain the Mechanized Bottom Fish subcategory ELGs from the current permit is specifically applicable to that ELG subcategory only, not to any other subcategories. DEC is continuing to apply EPA’s 1998 determination that the ELGs for the Non-Alaskan Mechanized Bottom Fish Processing [40 CFR §408.222] subcategory are the most appropriate ELGs available for the Mechanized Bottom Fish processing at the Kodiak facilities. However, since the new source performance standard ELGs in that specific subcategory were based on reduced water use as well as the addition of dissolved air floatation treatment, instead of being based only on reduced in-plant water use (like all of the other subcategory new source performance standards in the permit), the Department determined that it would be inappropriate to apply that particular subcategory’s new source performance standards in this permit and retained the previous limits.

There were no revisions to the permit documents based on these comments.

## 5.6 Comment Summary

Comment was received questioning why there are effluent limits for TSS, BOD, and oil and grease (O&G) included in the permit (Table 3 and Table 6) in addition to the required screening treatment. The comment also questioned why a mixing zone option is not provided for those parameters.

### Response:

The effluent limits in Table 3 and Table 6 are federally-promulgated, technology-based ELGs that must be met through treatment prior to discharge (the ELGs may not be relaxed through providing mixing zones). Technology-based ELGs are performance standards, meaning that they are based on the performance of certain treatment and control technologies (e.g., screening). However, permittees are not required to specifically use those treatment and control technologies to meet the technology-based ELGs. Note that Part 2.2.5.2 requires that seafood processing waste and wastewater be treated “to 1.0 millimeter (mm) or less via screens or other equivalent technology capable of meeting the technology-based ELGs found in Part 2.3 (Table 3) and Part 2.5 (Table 6), as applicable.” Permittees may use screens or other chosen method(s) to meet the technology-based ELGs, which are binding permit conditions.

There were no revisions to the permit documents based on these comments.

## 5.7 Comment Summary

A comment was received stating that the commenter’s facility is not capable of weighing solids sent to the by-product recovery facility daily but that the by-product recovery facility provides each processing facility a monthly report of the total pounds of seafood solids that facility has sent in the month.

### Response:

The Sample Frequency for seafood solids sent to by-product recovery in Table 4 was changed from “record daily” to “record monthly.” The requirement to report only the monthly total (not daily totals) was unchanged. Seafood by-product recovery facilities are required to record the amount of seafood input received daily (Table 7). The Department determined that it is unnecessary for individual processing facilities sending their waste to a by-product facility to record their waste sent on a daily basis.

## 5.8 Comment Summary

Comment was received stating that the composite samples in Table 4 and Table 5 need to be taken over a single calendar day, and that will ensure that the effluent sampling results are temporally consistent with the daily mass of raw seafood processed and used in calculations to determine ELG compliance.

### Response:

Nothing in 40 CFR Part 408 specifies that a daily maximum sample must be taken over a single calendar day. Appendix C defines a “sampling day” as “any consecutive 24-hour sampling period.” Table 4 and Table 5 specify that the raw product processed must be tracked by commodity line and sampling day. As discussed in the response to Comment 5.4, Table 4 and Table 5 footnotes were clarified to specify that “the compositing period shall be for 24 hours or for the total amount of time on the sampling day during which there is flow from the outfall. The composite sample shall consist of at least one equal volume aliquot per every full three hours in the compositing period.” The permittee may choose the window of time to be included in a sampling day, whether it happens to be a single calendar day or not, as long as both the effluent monitoring and the total raw product processed tracking occur over the same consecutive 24-hour sampling period.

## 6 Other Outfall(s) Limits and Monitoring, Part 2.6

### 6.1 Comment Summary

Comment was received that monitoring for some discharges that would fall under Table 8 should be less frequent due to intermittent, low flows and low risk of pollution. Commenter also requested that these flows be estimated instead of metered.

**Response:**

A footnote was added to Table 8 specifying that the permittee may request in writing that parameter monitoring frequencies be reduced to quarterly after one year of monitoring and reporting if results indicate no detections above applicable water quality standards. Another footnote was added allowing that flows that are intermittent may be estimated instead of metered. The incorporated revisions are specified as follows (additions are underlined).

**Table 8, Footnote e:** Catch transfer water flow discharged to vessels after offloading, and other flows that are intermittent, may be estimated instead of metered.

**Table 8, Footnote f:** The permittee may request in writing that parameter monitoring frequencies be reduced to quarterly after one year of monitoring and reporting if results indicate no detections above applicable WQS. Monitoring reductions can only occur once written approval from the Department is received.

### 6.2 Comment Summary

Comment was submitted requesting clarification that the monitoring described in Part 2.6 is to be done post-screening.

**Response:**

Part 2.2.5.7 already states that “All permit required effluent monitoring, except as specified in Part 2.4, shall be performed after all commingling has occurred and after the last treatment unit but prior to discharge to waters of the U.S.”

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

### 6.3 Comment Summary

Comments were submitted requesting that the sampling methodology required for catch transfer water discharged to vessels be less prescriptive since those flows are intermittent and can pose logistical challenges for sampling. General comments were also received that DEC should consider allowing permittees to propose alternate composite sampling methodologies for DEC approval.

**Response:**

Table 8 was edited to allow that if a flow required to be sampled under that table is intermittent, grab samples that are representative of the waste stream flow may be taken instead of composite samples (for BOD and TSS). Composite sampling remains required under Table 4, Table 5, and Table 7, with some clarifications to the compositing period (see Comment 5.4 and Comment 5.8). The incorporated revisions are specified as follows (additions are underlined).

**Table 8, Footnote b:** ~~Fish offloading involving catch transfer water is intermittent and not continuous. The sampling regiment for BOD<sub>5</sub> and TSS requires three individual grab samples taken and composited: one within 30 minutes after commencement of catch transfer water being sent to the vessel for discharge, one at the middle of the catch transfer water being sent to the vessel, and one within 30 minutes prior to ceasing sending the catch transfer water to the vessel. For monitoring effluents other than fish transfer water, sampling shall be 24 hour composite as defined in Appendix C. If the flow from the outfall is intermittent, grab samples that are representative of the waste stream flow may be taken. Otherwise, composite samples shall be taken, in accordance with the definition in Appendix C.~~

## 7 Receiving Water Quality Monitoring, Part 2.7

### 7.1 Comment Summary

Comment was received stating that the “readily-visible” definition does not need to be included in the permit text, Part 2.7.1.1, since it is already included in Appendix C.

**Response:**

When a term has been determined to be significant, the definition may be included in both the body of the permit and Appendix C. The definition in Appendix C was edited to streamline and better align with the language in the permit text. The incorporated revisions are specified as follows (additions are underlined).

**Appendix C:** ~~The Readily visible receiving water and shoreline areas are~~ is defined as the receiving water and shoreline area(s) that a shore-based trained personnel observer can see when standing at a location (on or off the permittee’s parcel) where the field of view is unobstructed ~~the water area without being blocked by buildings or ships. The water’s visible area~~ Visible areas may vary with weather (e.g., fog); and sea conditions (waves) ~~and where the observer is located (standing)~~. As a result, the extent of the readily visible ~~receiving water area will vary from day to day based on weather and sea conditions and~~ should be noted as part of each daily monitoring event. ~~Shoreline observations of where residues typically wash ashore may need to be made off the permittee’s parcel.~~

## 7.2 Comment Summary

Comment was received stating that the requirement for permittees to record receiving water monitoring observations at various phases of the tide cycle during each calendar month (Part 2.7.1.4) is redundant because this will occur just by the nature of the tide cycles and daily monitoring.

### **Response:**

Monitoring would not necessarily occur at the various phases of the tide cycle during the month without the requirement in place, as the permit does not specify that daily monitoring be conducted at a consistent time each day.

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

## 7.3 Comment Summary

Several comments were received regarding the photograph log required in Part 2.7.1.5. Comments included that the photograph log is redundant to the already-required written daily notation (Part 2.7.1.3), photos taken should not require a digital date and time stamp because the cell phones that facility personnel use to take the photos do not have that capability and the date and time can just be written on the photograph log instead, the three-year maintenance of photos should apply only to the monthly photos submitted (not any other photos that may be taken), and the permit should clarify the number of representative photos required to be logged.

### **Response:**

The photograph log serves to support the observations that are recorded during daily receiving water monitoring. The requirements in Part 2.7.1.3 and Part 2.7.1.5 are complementary, not redundant. The permit does not require that a smart phone be used to capture the required photos for logging. The permit requires that permittees capture and log at least one photo per month and also document any positive sea surface residues observed during the daily monitoring that month. Storing this number of photos is reasonably accomplished using readily-available technology.

There were no revisions to the permit documents based on these comments.

## 7.4 Comment Summary

Several comments were received regarding a zone of deposit (ZOD). Comments included that a standard one-acre ZOD should be included in the permit because other permits in effect allow for such ZODs, that providing a ZOD is a necessary margin of safety because screening does not guarantee that waste will not settle to a detectable deposit that could trigger remediation, and that if a standard ZOD is not included the permit should allow a grace period during which permittees may apply for one case-by-case if a detectable deposit is identified during the permit term despite the use of screening as required.

### Response:

All of the permits identified by commenters as examples containing a ZOD allowance also allow the permittee to grind and discharge waste, in contrast to the screening requirement in this draft permit. No Alaskan seafood and aquaculture sector permits (neither General Permits nor Individual Permits) currently in effect require waste screening and also allow for a ZOD. There is no site-specific data available showing deposits resulting from the Kodiak facilities' discharges. To the contrary, a 2015 seafloor survey, one of the few available from a Kodiak processing facility, noted that wastewater discharged from the outfall "was observed to quickly rise toward the surface and did not appear to contain any significant particulate matter that might be expected to settle to the seafloor. No seafood waste was observed on the seafloor in the vicinity of the outfall terminus, diffuser ports, or anywhere else that the divers observed... no seafood waste has been observed on the seafloor during previous surveys and none was expected during these surveys." The Fact Sheet Part 4.3 was edited to include this information. The regulations at 18 AAC 70.210 note that "the Department will, in its discretion, issue or certify a permit that allows deposit of substances on the bottom of marine waters within limits set by the Department." Since there is no evidence that waste screened as required by the draft permit will result in a deposit (and in fact, there is evidence to the contrary), the Department will not allow for a standard or optional ZOD in the draft permit. Of note, the draft permit does not say that the identification of a ZOD would trigger remediation, as stated by commenters. Such an identification would only trigger the requirement that the permittee "develop and submit an evaluation of source control and remediation options for Department review." The Department could review that submitted information to evaluate authorizing a ZOD during the next reissuance. In deciding whether to allow a ZOD, the Department would need to consider "alternatives that would eliminate, or reduce, any adverse effects of the deposit" (18 AAC 70.210(b)(1)).

There were no revisions to the permit documents based on these comments.

## 7.5 Comment Summary

Comment was received stating that the requirement for permittees to provide documented evidence that seafloor survey services were requested greater than three months in advance of when the survey was due to be performed should be removed from the permit.

### Response:

The permit only requires that the permittee document that services were requested three months in advance if the survey cannot be conducted within the October - December time frame. The Department acknowledges the dynamic nature of the fisheries. However, the required seafloor survey time frame remains stable each year. This should allow sufficient time for permittees to request surveying services in advance.

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

## 7.6 Comment Summary

Several comments were received regarding receiving water quality monitoring. Comments questioned the value of the monitoring, stated that the monitoring should be required to occur just outside of a mixing zone, requested clarification on an appropriate monitoring location, requested information on reporting situations when unsafe conditions preclude monitoring, and requested a stipulation allowing receiving water monitoring to be suspended after the first monitoring events (year 2 and year 4).

### **Response:**

The data collected under Part 2.7.3 or Part 2.7.4 is not intended to assess permit compliance, unless there is an approved mixing zone and facility-specific monitoring is included in an authorization to discharge (Part 2.7.3.9.2). Monitoring is required both in areas expected to be impacted by discharges (tidally downgradient from an outfall terminus) and in background locations not under the influence of a permittee's discharge in order for the Department to more fully understand the effects of the pollutants being discharged by analyzing effluent data and outfall configurations in comparison to the observed receiving water conditions (as discussed in the Fact Sheet Part 4.6). There are resources available to assist permittees in identifying appropriate monitoring locations. DEC recognizes that there are some days when it would not be safe for permittees to conduct receiving water quality monitoring. However, the monitoring under Part 2.7.3 is only required on two days per year, one during Pollock A season and one during salmon season. It is not unreasonable to expect permittees to find two days during the year that are safe for conducting the monitoring required. To address the last comment, Table 10 already specifies that the receiving water quality monitoring is required only in the 2<sup>nd</sup> and 4<sup>th</sup> years of permit coverage.

There were no revisions to the permit documents based on these comments.

## 7.7 Comment Summary

Comment was received requesting a provision that if DEC does not respond to a receiving water monitoring station location request within 90 days, the permittee may proceed with monitoring at the proposed location.

### **Response:**

The 90-day timeframe is a sufficient length for reviewing a monitoring station location request, so the Department determined that no changes to the permit were necessary.

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

## 7.8 Comment Summary

Comments were received requesting the option for permittees to conduct a receiving water quality monitoring program collectively instead of individually.

### Response:

Part 2.7.4, “Option for Collective Receiving Water Quality Monitoring,” was added to allow for collective receiving water quality monitoring, with prior DEC approval. The incorporated revisions are specified as follows (additions are underlined).

**Part 2.7.4.1:** A permittee may participate in collective receiving water quality monitoring under Part 2.7.4 in lieu of conducting the receiving water quality monitoring that would otherwise be required under Part 2.7.3.

**Part 2.7.4.2:** In order to participate in collective receiving water quality monitoring, a group of permittees shall:

**Part 2.7.4.2.1:** Develop a work plan for receiving water quality monitoring that achieves the objectives of the monitoring required under Part 2.7.3.

**Part 2.7.4.2.2:** Seek written approval of the receiving water quality monitoring work plan from DEC at least 90 days prior to commencing receiving water quality monitoring.

**Part 2.7.4.2.3:** Conduct monitoring and reporting in accordance with the work plan, if approved.

## 7.9 Comment Summary

Comments were received stating that the permit should include a standard 100-ft mixing zone.

### Response:

A mixing zone was not authorized in the prior AKG528000 permit. There was no data submitted by the commenters or available to support a default mixing zone and comply with regulatory requirements. The Department has included the option for permittees to apply for a facility specific mixing zone and will determine whether to authorize new mixing zones using the evaluation process required by 18 AAC 70.240 regulations.

There were no revisions to the permit documents based on these comments.

## 8 Annual Report, Part 2.8

### 8.1 Comment Summary

Comment was received requesting that Part 2.8.3.2.8 and Attachment D-3 (Annual Report Form) be amended to remove reporting losses of ammonia and ozone-depleting substances because the loss of these substances may be to the atmosphere and not to the receiving water. Comment was also received requesting that Part 2.8.3.4 be removed from the permit, as the chemical use reporting required is redundant to various other stipulations throughout the permit.

#### **Response:**

To address the first comment, both the permit and the Annual Report Form already specify that the permittee must submit a summary of only “any occurrences of leaks or breaks in the refrigeration/freezer systems that led to discharges to receiving waters.” To address the second comment, if a permittee follows the various permit provisions referenced in the comment (regarding disinfectant and food processing additive use and disposal BMPs), there will be no need for reporting anything under Part 2.8.3.4 (regarding reporting any chemicals, biocides, disinfectants, cleaners, and food processing additives not used per the manufacturer’s recommended use and application rates). There are no redundant reporting requirements.

There were no revisions to the permit documents based on these comments.

## 9 Quality Assurance Project Plan, Part 2.9

### 9.1 Comment Summary

Several comments were received regarding the QAPP. Comments questioned the complexity and the requirement that the QAPP help explain data anomalies, questioned the requirement for the QAPP to include sample container type and number information, and requested clarification about whether a single or multiple QAPP documents are expected from each permittee.

#### **Response:**

The requirements referenced in the comments are standard QAPP provisions included in APDES permits. A permittee may create either a single QAPP document that includes all items under Part 2.9 or multiple QAPP documents for different monitoring activities.

There were no revisions to the permit documents based on these comments.

### 9.2 Comment Summary

Comment was received requesting that Part 2.9.11.3 (regarding the Seafloor Survey QAPP) be modified to reflect the uncertainty inherent in measuring seafood waste thickness on the seafloor.

#### **Response:**

Since all measurement is inherently uncertain, the Department determined that no changes to the permit were necessary.

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

## 10 Best Management Practices Plan, Part 2.10

### 10.1 Comment Summary

Comments were received stating that the BMP Plan requirements are too complex, that any requirements for a BMP Plan should simply defer to the 1993 EPA guidance manual, that the permit should specify that establishing BMPs is required only when it is safe and appropriate to do so, and that good housekeeping practices should not be required to be incorporated (even by reference).

**Response:**

The CWA sections 402(a)(1) and (2) give the permitting authority the ability to include BMPs in permits on a case-by-case basis to carry out the provisions of the act. This is codified in the federal regulations at 40 CFR §122.44(k) and in 18 AAC 83.475. Where practices are deemed necessary to carry out the purposes and intent of the CWA, the permit writer may develop BMPs to implement those practices. Nothing in the permit requires the permittee to adopt unsafe practices. Incorporating already-written facility procedures into the BMP Plan by reference does not add unnecessary complexity to the BMP Plan, it provides an interested reader a link to that information if needed. There were no revisions to the permit documents based on these comments.

### 10.2 Comment Summary

Comments were received stating that only facility processes should be evaluated for pollutant minimization (not each facility component or system), requesting clarification on what would be technologically feasible and economically achievable options for waste and wastewater treatment beyond the current 1 mm screening employed, and requesting clarification about the requirement to examine normal operations and consider ways to reduce pollutant loading passing through screening.

**Response:**

Nothing in Part 2.10.4.5.3 or elsewhere in Part 2.10 requires the permittee to examine each piece of equipment for pollutant minimization opportunities and keep records of those evaluations, as the commenter interpreted. It is incumbent upon each facility to evaluate waste and wastewater treatment options under Part 2.10.4.5.3.2. However, for informational purposes, there are alternate wastewater treatment system options discussed in Fact Sheet Part 3.5.2. Under Part 2.10.4.5.3.4.2, the permittee is directed to examine operations, to include considering ways to reduce pollution that may be passing through the screening. Examining operations does not require the permittee to physically examine wastewater after screening, as interpreted by the commenter. There were no revisions to the permit documents based on these comments.

### 10.3 Comment Summary

Comment was received stating that it is unnecessary to have specific management practices to reduce or eliminate discharge of wastes that have the potential to collect and foul set or drift nets used in subsistence or commercial fisheries in nearby traditional use areas because, due to the nature of the waste discharged, the waste will not foul nets.

**Response:**

Over the previous permit term, DEC has received numerous complaints from concerned community members describing wastes from the processing plants fouling the surface of the surrounding waters and floating to accumulate on surrounding shorelines, boats, float planes, etc. Part 2.10.4.7.4 is necessary to ensure that processors are cognizant of and responsive to such problems.

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

## 10.4 Comment Summary

Comment was received stating that Part 2.10.4.7.9 should not refer to wastewater treatment plans for chemical products used within the facility, as the permit does not require specific treatment for those covered discharges. Comment was also received that Part 2.10.4.7.15, regarding selection of chemicals used for cleaning and sanitizing, was too nebulous.

### Response:

Part 2.10.4.7.9 was edited to reflect the permittee's responsibility to ensure that chemical products used at the facility do not cause exceedances of the WQS. Part 2.10.4.7.15 is purposely not prescriptive because different cleaning products may be appropriate for different facilities and situations. The incorporated revisions are specified as follows (additions are underlined).

**Part 2.10.4.7.9:** Minimization and ~~wastewater treatment plans for~~ to ensure that chlorine, other disinfectants, degreasers, defoaming agents, or other chemical products used at the facility will not cause exceedances of the WQS.

## 10.5 Comment Summary

Comment was received requesting clarification that Part 2.10.4.7.10 requires that permittees examine facility operations and systems both for potential sources of pollution and for ways to reduce pollutants.

### Response:

The commenter's broad interpretation of the permit provision is correct. Specifically, this provision refers to minimizing the potential for release of pollution due to the failure or improper operation of equipment.

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

## 10.6 Comment Summary

Several comments were received regarding the BMPs required for purging ammonia or other chemical-based refrigerant and freezer systems. Comments included that ammonia purging BMPs should not be required if not discharged to waters and that permittees should not be required to minimize purged substances but rather should be able to dispose of as much purge water as required for maintenance.

### Response:

It is important for permittees to include refrigeration system purging practices in their BMP Plans even if not discharged to waters to be sure that the expected disposal practices are clear, both to facility employees and to anyone else reviewing the BMP Plan. Historically in Kodiak, ammonia from processing plant refrigeration systems has been found to be discharged to the city sewer system and to St. Paul Harbor. Thus, it is essential that all facilities have clear procedures in place for the proper handling of these hazardous wastes. To address the second comment, in requiring that permittees have an approach to minimize and treat discharged refrigerants under Part 2.10.4.7.17.2, the expectation is that permittees will need to minimize the amount of ammoniated water purged at one time in order to ensure that the purged water does not cause the facility to exceed the pH limit that applies at the point of discharge to the receiving water. The purge water pH must be between 6.5 and 10.0 SU prior to commingling with processing water for discharge, but the commingled waste stream pH must be between 6.5 and 8.5 SU prior to discharge to the receiving water. Minimizing the amount of ammoniated water purged at one time may also be necessary to ensure that the purged water does not cause an excursion above the applicable ammonia WQS at the point of discharge.

There were no revisions to the permit documents based on these comments.

## 11 Attachments and Appendices

### 11.1 Comment Summary

Comment was received stating that the commenter does not have flow meters on individual processing lines so would need to estimate that information for the line drawing required in the NOI (Attachment A). The commenter also requested more clarity on what level of detail is expected in showing separate processing lines in the line drawing.

**Response:**

It is not required that the flows on the line drawing be measured by flow meters on individual processing lines. This information may be estimated. As noted in Part 1.6.2.3.1, “Similar processes, operations, or production areas may be identified as a single unit and labeled to correspond to a more detailed identification in a narrative report.”

There were no revisions to the permit documents based on these comments.

### 11.2 Comment Summary

Comment was received asking what DEC expects to be submitted under “Section X: Proposed Commodity Line ELG Calculations” in the NOI (Attachment A), since the required methodology for conducting the calculations is detailed in Appendix D.

**Response:**

The following was added to the Attachment A NOI Instructions document under Section X: Proposed Commodity Line ELG Calculations – Submit sample calculations, based on the methodology in Appendix D, demonstrating the permittee’s understanding of how to calculate facility-specific ELGs as required by Permit Part 2.3.5.

### 11.3 Comment Summary

Comment was received stating that it is unclear why the Appendix A – Standard Conditions cover page reads “September 2011.”

**Response:**

As noted in the Fact Sheet Part 5.4, Permit Appendix A contains standard regulatory language that must be included in all APDES permits. The “September 2011” reflects the last time that document was updated.

## 11.4 Comment Summary

Comment was received requesting that the “trace coverage” definition in Appendix C be amended from “detectable to 9%” to “detectable to less than 10%” so that deposits estimated to cover between 9% and 10% of the area in a sample plot would not be left without a category.

### Response:

The Appendix C and Appendix E “trace coverage” definitions were amended as requested. The Appendix E text was also clarified to refer to waste deposit coverages that are “greater than detectable” instead of “greater than zero,” to match the language used in the permit text. The incorporated revisions are specified as follows (additions are underlined).

**Appendix C and E:** Trace coverage means areas of seafood waste that are estimated to cover detectable to less than 10% areal coverage within a 3-foot by 3-foot sample plot.

**Appendix E:** The permittee is required to conduct a seafloor survey annually at discharge locations when seafood waste deposit coverage areas ~~of greater than zero~~ greater than detectable are found. An evaluation of options for source control and remediation is required if the permittee’s seafloor survey report documents seafood processing waste coverage ~~exceeding zero~~ greater than detectable, regardless of when the wastes were deposited.

## 11.5 Comment Summary

Several comments were received requesting clarification regarding the difference (or lack thereof) between the terms “type,” “species,” and “commodity.”

### Response:

A definition for “commodity (line)” was added to Appendix C as follows: May refer to: Crab meat, whole crab/crab sections, shrimp, salmon conventional/hand butchered, salmon mechanized processing, bottom fish conventional/hand butchered, bottom fish mechanized processing, scallops, herring – frozen whole, herring fillet processing, washed mince, washed paste, by-product recovery, or sea macroalgae. The permit, Fact Sheet, and Appendix D were edited throughout to use the term commodity (line) consistently in place of “type” or “species,” as appropriate.

## 11.6 Comment Summary

Several comments were received regarding Appendix D. Comments requested that the text in the first paragraph refer the permittee to the relevant ELG tables in the permit, that the row separations be more clearly differentiated in the calculation tables, and that the wording in Step 2-5 be clarified.

### Response:

The incorporated revisions are specified as follows (additions are underlined).

**Appendix D, paragraph one:** Several types of seafood processing activities and ~~species~~/commodity line-specific effluent limitations (Permit Table 3 and Table 6) are covered by the permit.

**Appendix D, Step 2-5 Denominator:** (Sampling days sum total raw product processed during the month, lbs)

### 11.7 Comment Summary

Comment was received stating that the requirement for seafloor surveys to reach a depth of 120+ feet (Appendix E) violates Occupational Safety and Health Administration (OSHA) limits for commercial diving, so the survey depth requirement should be adjusted to 100 feet.

**Response:**

There is no requirement that the seafloor surveying be conducted by a diver.  
There were no revisions to the permit documents based on this comment.

### 11.8 Comment Summary

Comment was received stating that Appendix E's specific GPS positioning method required (Wide Area Augmentation System, or WAAS) is not necessarily the best technical alternative and is not suitable to support all survey types. Commenter requested that the required protocol allow that the WAAS method or other method that achieves the same or greater spatial accuracy be used.

**Response:**

The incorporated revisions are specified as follows (additions are underlined).

**Appendix E, Part 1.0:** Global Positioning System (GPS) coordinates derived using Wide Area Augmentation System (WAAS) technologies, or another technology with equivalent or better position accuracy, must be recorded for each underwater marker.

### 11.9 Comment Summary

Comment was received stating that the "Comparison of Various Survey Methods" section and table, included in Appendix E and Appendix G, could be misleading and contained little useful information.

**Response:**

The table was meant for permittee information only. Thus, it was removed from Appendix E and from Appendix G, as requested, and placed into the Fact Sheet Part 4.3.

## 12 Regulatory Update

During the public notice period (on September 30, 2019), EPA approved the state of Alaska's updated March 23, 2006 mixing zone regulations (18 AAC 70.240). References to the mixing zone statutes throughout the permit and Fact Sheet have been edited to correspond to the newly-approved statutes.

## 13 Additional Comments Received During the Ten-Day Applicant Review

During the ten-day applicant review for the proposed final permit documents, the Department received additional comments from three commenters: Perkins Coie LLP representing the Pacific Seafood Processors Association; Trident Seafoods Corporation; and Ocean Beauty Seafoods, LLC. Several comments received during the ten-day applicant review 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 ten-day applicant review. The Department slightly modified the Final Permit and Fact Sheet based on some of 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.

### 13.1 Comment Summary

Comment was received reiterating the commenter's position that some of the processing facilities in Kodiak would be more appropriately regulated by an individual permit instead of a general permit (also see Response to Comment 2.1).

**Response:**

As noted previously, the Department determined under 18 AAC 83.205 that the Kodiak processing facilities are more appropriately controlled under a general permit than under individual permits. Operators may request to be excluded from the coverage of the general permit by applying for an individual permit under 18 AAC 83.215(b) within 90 days after publication of the general permit (see Permit Part 1.9.6 – 1.9.7). However, the operator would still need to be covered under the reissued general permit while the request for an individual permit was being evaluated, or the facility would be left without coverage during that time period. Facilities' authorizations under the expired general permit will not continue in effect once the reissued general permit becomes effective.

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

### 13.2 Comment Summary

Comment was received stating that processors are concerned there will be insufficient time between the permit issuance and effective date to complete tasks necessary before NOI submittal. The comment requested that DEC provide a timeline for the permit issuance and implementation (also see Response to Comment 2.2).

**Response:**

The Department determined that the permit effective date will be January 1, 2021. This will leave processors several months between permit issuance and effective date, including the November-December time period which industry has identified as a slow period when facility maintenance is typically performed.

The cover page of the final permit reflects the assigned January 1, 2021 effective date.

### 13.3 Comment Summary

Comments were received stating that catch transfer water is not a component of seafood processing wastewater and thus it should not be listed in Permit Part 1.2.1.1 as a sub-component of seafood processing wastewater (also see Response to Comment 3.2).

**Response:**

DEC has determined that catch transfer water is seafood processing wastewater. The APDES definition at 18 AAC 83.990(54) states that “process wastewater” is any water that comes into direct contact with or results from the production or use of any raw material during processing. Seafood that is offloaded from fishing vessels or tenders is “raw material,” and the catch transfer water comes into “direct contact” with the seafood. While the term “processing” is not defined in 18 AAC 83, the process of separating the catch from the catch transfer water is clearly the first step in “processing” the seafood. It is the first time the processing plants participate in handling the fish, distinguishing the activity from the mere transportation of fish by the vessel. The “processing” and “processing water” definitions found in DEC’s food safety regulations, at 18 AAC 34, are not relevant to APDES permitting because they specifically apply only in that food safety regulatory chapter. Additionally, in the Notice of Proposed Rulemaking for the 40 CFR Part 408 (seafood processing point source category) ELGs, the Federal Register noted: “Generally, waste water flows within the seafood processing industry originate at the receiving, preprocessing, evisceration, pre-cooking, picking and cleaning, preserving, canning, freezing, plant cleanup and by-product operations of the manufacturing process” (emphasis added). Therefore, the waste streams listed under Permit Part 1.2.1, catch transfer water (after being conveyed to the onshore processing facility) and cleaning agents, are appropriately listed as sub-components of seafood processing wastewater.

There were no revisions to the permit documents based on these comments.

### 13.4 Comment Summary

Comment was received requesting that the upset language in Response to Comment 3.5 (stating that discharge of wastewaters associated with spoiled seafood is not necessarily an upset condition unless that discharge causes exceedance of the permit’s effluent limit(s)) be included in the permit, or that the Permit Part 1.4.1.1 prohibition on discharging spoiled seafood be removed altogether.

**Response:**

Part 2.7 of Appendix A – Standard Conditions, incorporated in the permit, already states that an upset condition is a noncompliance with a technology-based permit effluent limitation.

There were no revisions to the permit documents based on these comments.

### 13.5 Comment Summary

Multiple comments were again received regarding the requirement to complete an antidegradation analysis to apply for a mixing zone. Comments included that the Tier 2 analysis is triggered by a new or expanded “discharge” (not a parameter), that it is inappropriate to specify a priori that the antidegradation analysis required will be Tier 2, and that antidegradation analysis would not reflect the discharge from a specific processor due to the proximity of processors’ outfall lines and local currents commingling the effluents (see also Response to Comment 3.6).

**Response:**

After thorough internal review of the regulations at 18 AAC 70.016, the Department has determined that a Tier 2 antidegradation analysis is required when a pollutant is assigned a numeric effluent limit for the first time because the definition of “new or expanded discharge” is based on changes in permit conditions that regulate the discharge, not changes to physical characteristics of the effluent stream. To reduce confusion, the Department slightly altered the permit language, as described below. To address the last comment, antidegradation analysis aims to identify how a permittee’s discharge may impact a waterbody and to consider alternatives that would prevent or lessen the degradation associated with the discharge. The required analysis is an evaluation of the effluent, not of the receiving waters.

**Part 1.6.2.7.1:** To request a mixing zone, permittees must also submit Form 2G and include sufficient information for the Department to complete an antidegradation analysis and make findings under 18 AAC 70.016 (b), (c), and (d). The Tier 2 antidegradation analysis is required for parameter(s) determined by the Department to meet the definition of new or expanded, ~~including all parameters regulated for the first time.~~

### 13.6 Comment Summary

Comment was received reiterating the request that permittees be allowed to estimate flow during periods when flow meters are not functional (also see Response to Comment 4.2).

**Response:**

The Department determined that the language in Part 1.6 of Appendix A – Standard Conditions sufficiently describes the expectations pertaining to a permittee’s duty to operate and properly maintain equipment used in compliance with permit conditions.

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

### 13.7 Comment Summary

Comment was received again asserting that DEC does not have the authority under the APDES permitting program to require processing facilities to monitor or treat catch transfer water returned to vessels (also see Response to Comment 4.5).

**Response:**

The CWA carries strict liability for discharging pollutants from a point source to waters of the United States (WOTUS). The seafood processors in Kodiak currently convey catch transfer water back to vessels after separating it from the catch, and the vessels then discharge that process wastewater to WOTUS. In this way, the processing plants indirectly discharge to WOTUS through an intermediary point source, a vessel. This discharge carries liability under the CWA. Discharging process wastewater (catch transfer water) through an intermediary point source instead of directly to WOTUS does not remove the processing facilities' CWA liability for the discharge. As specified in Permit Part 2.2.5.6, the processing plants must monitor catch transfer water upon discharge whether it is discharged through their main seafood processing outfall (under Permit Part 2.3) or discharged back to a vessel (under Permit Part 2.6).

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

### 13.8 Comment Summary

Comment was received again asserting that discharge of catch transfer water is an "incidental discharge" from a fishing vessel, specifically exempt from CWA permitting under VIDA (also see Response to Comment 4.8).

**Response:**

VIDA does not exempt a fishing vessel's discharge of process wastewater from the APDES program, as VIDA only exempts fishing vessels from the APDES program for discharges that are "incidental to the normal operations of the fishing vessel." Separating catch from catch transfer water constitutes seafood processing, and any resulting discharge is process wastewater. When the fishing vessel accepts catch transfer water back from an onshore processing facility, it is being used as part of a seafood processing facility even if it does not actively participate in separating the catch from the catch transfer water. The catch transfer water does not return to its status as unprocessed fish hold effluent when it is returned to the fishing vessel. Therefore, the discharge of that process wastewater from a fishing vessel is not an incidental discharge under VIDA and not exempt from the APDES program. Furthermore, 18 AAC 83.990(29) defines a "facility or activity" as "any point source or any other facility or activity, including land or appurtenances, that is subject to regulation under the APDES program." Since the vessels are being used as part of the seafood processing facility, other discharges (besides catch transfer water) that occur from the vessels while at the processing facility may also be regulated under the processing facility's APDES permit (also see Response to Comment 4.7).

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

### 13.9 Comment Summary

Comment was received requesting that DEC advise permittees on how to estimate intermittent flows under Permit Table 8 (also see Response to Comment 4.10).

**Response:**

As noted by the commenter, catch transfer water intermittent flows are variable and depend on many factors (e.g., vessel tank size, load size delivered to the facility, and amount of water requested back by the vessel). The Department will leave the flow estimation method(s) to the permittee's judgment to allow for flexibility across different situations.

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

### 13.10 Comment Summary

Comment was received raising concern that the need to re-engineer a facility to capture retort cooling water puts facilities with such discharges at a competitive disadvantage compared to the other Kodiak processing facilities (also see Response to Comment 4.12).

**Response:**

Plant modifications are not the only manner in which facilities may achieve compliance with the general permit. Another option is to seek a mixing zone (see Permit Part 2.2.5.7) for parameters, such as temperature, that do not meet the WQS prior to discharge.

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

### 13.11 Comment Summary

Comment was received that instead of including a temperature effluent limit, the permit should simply state that the discharge shall be in compliance with Alaska WQS (also see Response to Comment 4.13).

**Response:**

Under 18 AAC 83.435(b), effluent limitations in a permit must control all parameters that the Department determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any state WQS. The Department has determined that discharges covered by the general permit, which include cooling water, have the reasonable potential to cause or contribute to an excursion above the state WQS for temperature. Therefore, the permit includes an effluent limitation to control effluent temperature. The temperature effluent limit in the permit (15 C maximum) is a WQBEL based on the state WQS found in 18 AAC 70.020(b). A facility discharging effluent hotter than 15 C at the point of discharge would be non-compliant with the WQBEL but could apply for a mixing zone. If a facility were authorized a mixing zone for temperature, the 15 C effluent limit would be superseded by a modified effluent limit in the individual authorization to discharge (see Permit Part 2.2.5.7).

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

### 13.12 Comment Summary

Comment was received again requesting that clarification be added to Permit Part 2.2.9.3 stating how the nuisance criteria will be objectively applied (also see Response to Comment 4.15).

**Response:**

Nuisance criteria are narrative, and there will always be a degree of subjectivity in how a narrative standard is applied.

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

### 13.13 Comment Summary

Comment was received requesting that sampling under Permit Part 2.3.6.2 be triggered when a commodity line is processed for “at least 24 continuous hours during the calendar month” instead of “at least 24 hours during the calendar month” (also see Response to Comment 5.2).

**Response:**

Permit Part 2.3.6.2 was already modified, after the public comment period, to language that was specifically requested by this commenter. The Department has determined that incorporating this new suggested language is not appropriate. It would create a loophole where a permittee could process a commodity line for 23 hours per day for several days in a month but still never sample processing water from that commodity line, which would conflict with the permit’s requirement that monitoring be representative of the facility’s waste stream flow.

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

### 13.14 Comment Summary

Comment was received stating that the composite sampling requirements are still too prescriptive and requesting that DEC remove sampling protocols from the general permit and state that sampling will be conducted in accordance with a DEC-approved QAPP (also see Response to Comment 5.4 and 5.8).

**Response:**

The Department does not approve QAPPs. Removing sampling protocols from the general permit altogether would remove the assurance that the sampling conducted by the permittees sufficiently monitored the covered waste streams, and it would eliminate transparency (moving sampling protocol requirements outside of the public permitting process). However, DEC will allow permittees to request permission for specific modifications to the general permit’s prescribed sampling protocols. The composite sampling footnote in Permit Table 4, Table 5, and Table 7 was revised as follows (additions are underlined):

**Table 4/5/7, footnote e/f/e:** See Appendix C for a definition. The compositing period shall be for 24 hours or for the total amount of time on the sampling day during which there is flow from the outfall. The composite sample shall consist of at least one equal volume aliquot per every full three hours in the compositing period... Deviations from this composite sampling protocol may be used if requested with the NOI and approved in writing in the facility’s individual authorization to discharge.

### 13.15 Comment Summary

Comment was received reiterating the viewpoint that the Department should retain the current permit's (existing source performance standard) ELGs for Conventional/Hand Butchered Bottom Fish. The commenter asserted that the data used by EPA in the 1970s to establish the Alaskan Bottom Fish ELGs (the basis of the Conventional/Hand Butchered Bottom Fish technology-based effluent limits applied in the general permit) are not representative of today's Alaskan bottom fish processing, in terms of both species processed and processing methods. The commenter argued that it is inappropriate to apply that ELG subcategory at all in the general permit and especially inappropriate to apply the new source performance standards from that subcategory because it "compounds the error" of applying that subcategory's ELGs in the first place (also see Response to Comment 5.5).

**Response:**

The applicability section of the Alaskan Bottom Fish processing subcategory, at 40 CFR §408.200, broadly reads "the provisions of this subpart are applicable to discharges resulting from the processing of bottom fish such as halibut in Alaska." Thus, the ELGs in that subcategory are applicable to processing all bottom fish, not only halibut, in Alaska. The Department has determined that the Alaskan Bottom Fish ELGs are appropriately applied in the general permit.

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

### 13.16 Comment Summary

Comment was received requesting that Permit Table 4 allow processing facilities to estimate the pounds of seafood solids sent to by-product recovery, as the processors do not weigh this material but each facility receives a report from the by-product facility each month stating the total poundage of solids sent (also see Response to Comment 5.7).

**Response:**

The by-product facility is required to weigh the screened solids received from the other processing facilities (see Permit Part 2.5.1), as this is the "raw product" weight that the by-product facility must use to calculate compliance with that facility's effluent limits under Permit Table 6. However, it is redundant to require this material to be weighed twice, both upon leaving the processing facility and upon entering the by-product facility. Therefore, to relieve the processing facilities of the requirement to weigh screened solids leaving their facilities, the "seafood solids sent to by-product recovery" line in Permit Table 4 was deleted.

### 13.17 Comment Summary

Comment was received that the level of pollutants in discharges from fishing vessels at the processing facilities does not have a material impact on the waters into which they are discharged and therefore does not merit regulation (also see Response to Comment 6.1).

#### Response:

The EPA study cited by the commenter (EPA 833-R-10-005) includes the following finding: “The BOD levels in fish hold effluent and graywater are comparable to BOD concentrations in raw sewage. Fish hold effluent also has a relatively high discharge volume, so *this discharge can contribute a significant BOD/COD loading to receiving waters, particularly when multiple vessels discharge at the sample location (e.g., pierside at a fish processing facility)*. Hence, depending upon receiving water characteristics, BOD and COD from fish hold effluent may significantly impact the local environment and contribute to water quality exceedances in receiving waters” (emphasis added). At the Kodiak processors’ docks, there are multiple vessels discharging in a small area, so impact on receiving waters is a concern. However, the Department determined that during this permit term initial data collection period, it is sufficient for processors to sample catch transfer water discharges in the second and fourth years of the permit term. This will provide enough data points for the Department to evaluate catch transfer water pollutants’ reasonable potential to cause or contribute to an excursion above the state WQS. A footnote was added to Permit Table 8 as follows (additions are underlined):

**Table 8, footnote g:** Catch transfer water monitoring under this table is only required to occur during the 2<sup>nd</sup> and 4<sup>th</sup> years of permit coverage. The catch transfer water monitored must be either from a salmon delivery or from a Pollock delivery, if one of those species is delivered during the month.

### 13.18 Comment Summary

Comment was received requesting that permittees be allowed to collect grab samples of intermittent discharges under Permit Table 4, Table 5, and Table 7 as allowed under Permit Table 8 (also see Response to Comment 6.3).

#### Response:

As the permit is currently written, if flow under Table 4, Table 5, or Table 7 is intermittent (the total amount of time on the sampling day during which there is flow from the outfall is three hours or less), the permittee is only required to take one sample during that 24-hour sampling period. Functionally, this is a grab sample.

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

### 13.19 Comment Summary

Comment was received again requesting that DEC remove the requirement that monitoring photographs include a digital date and time stamp (also see Response to Comment 7.3).

#### Response:

The Department has determined that the date and time stamp is necessary in order to document that the photographs were taken as required under the permit.

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

### 13.20 Comment Summary

Comment was received again asserting that since there is no guarantee that screening will ensure that waste is not deposited on the seafloor, the permit should include the ability for permittees to apply for a ZOD. Alternatively, if there is no option for a ZOD in this permit cycle, there should be language in the permit or fact sheet stating how DEC will use the study results from this permit term (also see Response to Comment 7.4).

#### Response:

The existence of a deposit on the seafloor does not automatically mean that the Department will authorize a ZOD. There is a determination process required by statute. According to 18 AAC 70.210, “The department will, in its discretion, issue or certify a permit that allows deposit of substances on the bottom of marine waters within limits set by the department.” To date, DEC has not authorized a ZOD in any seafood sector permit that requires waste screening. In order to make the determination to authorize a ZOD, the Department must assess several factors listed in 18 AAC 70.210(b), including “alternatives that would eliminate, or reduce, any adverse effects of the deposit.” The permit is set up so that if a permittee identifies a bottom deposition in a survey during the permit term, that permittee submits an evaluation of source control and remediation options for Department review. That information would be necessary for the Department to assess to evaluate authorizing a ZOD during the next reissuance. Fact Sheet Part 4.3 already explains the Department’s intent for using the seafloor surveying data collected this permit term: “Therefore, the Department does not expect that there will be detectable deposits but is requiring permittees to perform a seafloor survey to investigate this assumption. If deposits are identified during the seafloor survey study required during this permit term, the Department will use that information to evaluate authorizing a zone of deposit under 18 AAC 70.210 during the next reissuance” and “Seafloor survey results from the studies this permit term will be used to gather data to determine whether additional limitations are needed to monitor effluent impact on receiving water quality and to inform future permit reissuance decisions (including the potential allowance of a zone of deposit under 18 AAC 70.210).”

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

### 13.21 Comment Summary

Comment was received requesting clarification on whether or not the background station for receiving water quality monitoring should be at a location affected by nearby processors’ discharge (also see Response to Comment 7.6).

#### Response:

The background station for receiving water quality monitoring should be at a location not affected by any processor’s discharge. To make this clear, the Permit Part 2.7.3 was revised as follows (additions are underlined):

**Part 2.7.3.7:** For all other monitoring parameters, sampling shall be conducted at a representative location in the ambient receiving water not under the influence of ~~the~~ any permittee’s discharge.

**Part 2.7.3.7.1:** A monitoring station(s) must be established by the permittee in the receiving water at a background station at a point representative of the quality of the receiving water, not influenced by ~~the~~ any facility’s discharge, collected at mid-depth.

## 14 Informal Review Request

After final permit issuance, the Department received an informal review request under 18 AAC 15.185 from Perkins Coie LLP representing the Pacific Seafood Processors Association, a trade association representing North Pacific Seafoods, Inc., OBI Seafoods LLC, and Trident Seafoods Corporation.

One of the contested issues raised was the regulation of “other discharges” (besides catch transfer water) from vessels docked at the processing facilities. The review requester asked for clarity on the regulatory intent behind the Department’s statement that “Permittees are also responsible for any other discharges that are made from vessels at the facility’s docks (whether catch transfer water or not)” (Comment 4.7) because the vessels become part of the processing facility because they accept transfer water (Comment 13.8) and “any discharges made from vessels at the facility’s docks (whether catch transfer water or not) are subject to regulation through an APDES permit” (Comment 4.8). Specifically, the requester asked that the Department clarify whether such discharges were subject to the provisions of the AKG528000 General Permit.

The Department clarified that other discharges are not covered under AKG528000. The Department does not comment on, nor predetermine, enforcement mechanisms through the Permitting process. Unauthorized discharges are evaluated on a case-by-case basis dependent upon the circumstances of the alleged violation. Compliance and enforcement will be carried out according to the conditions and requirements of issued and effective permits and applicable state and federal statutes and regulations.

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