RESPONSE TO COMMENTS
Pribilof General Permit
NPDES No. AK-G52-7000

I Introduction

On October 2, 1998, the Environmental Protection Agency, Region 10 (EPA) proposed to reissue a General National Pollutant Discharge Elimination System (NPDES) Permit for discharges within three nautical miles of the Pribilof Islands, Alaska. The proposed general NPDES permit will authorize discharges from seafood processing facilities discharging through stationary outfalls on St. Paul and St. George Islands, from the city of St. Paul's domestic wastewater treatment system, and from mobile seafood processing vessels discharging within three nautical miles of the Pribilof Islands.

The comment period on the proposed permit began on October 2, 1998, and ended on November 1, 1998.

EPA received several comments during the comment period. This document provides a summary of the substantive comments received and the responses to those comments.

II Commenters

Bogle & Gates: Karen M. McGaffey for Seven Seas Fishing Company, Trident Seafood Corporation and UniSea, Inc. (Bogle)

Norquest Seafoods, Inc.: John Garner, Senior Vice President, M/V *Aleutian Falcon*. (Norquest)

Snopac Products Inc.: Charles O. Perkins. (Snopac)

Owens & Turner: Erin Rose for Tanadgusix Corporation (TDX) and Pribilof Bering Seafoods, Ltd. (Owens)

United States Department of Commerce, National Marine Fisheries Service (NMFS): Steven T. Zimmerman, Assistant Regional Administrator.

United States Department of Interior, Fish and Wildlife Service (USFWS): Ann G. Rappoport, Field Supervisor,

Yardarm Knot Fisheries, L.L.C.: Henry W. Streich, Vice President. (Yardarm)

III Comments

Section 1 of the Permit – Authorized Facilities, Authorized Discharges, and Unauthorized Discharges

<u>Comment</u>: Recommend the terms "woody fiber" and "plants" be deleted from Section 1.2.1 since these materials are not normally associated with seafood processing wastes. Also suggest that the phrase "be ground to 0.5 inches in any dimension. . . ." be replaced with ". . . no larger than 0.5 inches . . . ." (USFWS)

Response: EPA agrees that this replacement phrase clarifies what is required.

Comment: Recommend processed wastes effluent maximum particle size shall be 1.0 millimeter (mm) diameter rather than one-half inch. (NMFS)

Response: The effluent guidelines for remote seafood processing requires point sources subject to 40 CFR § 408.72 to achieve the degree of effluent reduction attainable by the application of the best practicable control technology (BPT) currently available which is "no pollutants may be discharged which exceed 0.5 inch in any dimension." This recommendation would require the vessels and shorebased facilities operating within three nautical miles of the Pribilof Islands to screen the wastes to 1 mm and then find a means to dispose of the wastes, mostly likely by ocean dumping. Utilizing dump barges or boats could possibly attract rats and other undesirable scavengers which may cause more serious environmental impacts than wastes ground to 0.5 inch. Seafood processing facilities and vessels operating in other reomote processing areas in Alaska are permitted to discharge wastes ground to 0.5 inch without an impact on the environment even in areas that may have less active receiving waters than the Bering Sea. EPA has required discharged processing wastes to be no larger than 1 mm only when there is evidence of persistent accumulations at the end of the outfalls.

A new requirement for the processors is to conduct periodic inspections of the grinding equipment to verify that the wastes are being ground to no more than 0.5 inches in any dimension.

Comment: Recommend using the wording from page 21 of the Fact Sheet as a more complete phrase for Section 1.3.1. (USFWS)

Response: EPA has adopted the language from the Fact Sheet for Section 1.3.1.

Comment: Concern was expressed about the prohibition against the processing of fillets from pollock, cod, or any type of finfish. According to the comments, historically under past permits, local processors have been allowed to process limited amounts of cod, pollock and salmon. Propose that, consistent with such past practice, EPA add language to the permit which will enable finfish processing in limited amounts under the permit. (Owens)

Response: EPA acknowledges that Notices of Intent (NOIs) received in 1994 and possibly before, did project processing of pollock into fillets and surimi as well as cod and salmon. However, those NOIs were submitted under the statewide seafood general permit and no processing of pollock, cod, or salmon was reported at the Pribilof Island facilities. In developing an appropriate general permit for seafood processing within three nmi of the Pribilofs, EPA has applied its experience and knowledge of the environmental effects that result from unlimited processing by grinding and processing surimi, mince, and fillets. EPA and the seafood processing industry have learned that unlimited discharge of ground crab and fish wastes will result in the imposition of expensive treatment technology to alleviate the environmental harm. Therefore, EPA has decided that for such processing to occur, a specific review of the facility and its treatment technology would be necessary in the context of an individual permit application.

EPA has revised section 1.2.1 to allow the limited processing of finfish, such as salmon, depending on when the processing is to be done, where the discharge will be, and what amount of wastes to be generated, provided that the finished product is not fillets or surimi and/or fish paste. In other words, a close examination of the NOI by EPA and ADEC will be done before any authorization to discharge is approved under this general permit.

The reason to limit finfish processing of fillets or surimi/fish paste is because of the large volume of fish needed to be processed to produce a finished product. The recoveries and yields from pollock, salmon, and cod–ranging from 24 to 50% recovery--indicate that processing would require large volumes of raw product. If such processing is proposed, then application for coverage under an individual permit will be necessary.

Comment: Clarify or correct the language in section 1.3.2 "territorial waters (within three nmi limit)." (USFWS)

Response: The language in this section has been changed to read "U.S. territorial waters (within the three mile limit). The nmi not applicable in this case since the definition of territorial waters is in miles [*see* 33 U.S.C. § 1362(8)].

Comment: The issue of non-permitted vessels discharging within the 3-mile control area during the time frame Dec. 1 to May 1 should be specifically addressed. (Snopac)

Response: When EPA issues a permit, it focuses on what discharges are authorized or permitted. This permit is issued for discharges within three nmi of the Pribilof Islands and in response to an NOI authorizes specific operators to discharge in compliance with the permit requirements and conditions. Any non-authorized discharger is prohibited from discharging and is in violation of the Clean Water Act as an unpermitted discharger.

Section 2 of the Permit – Excluded Areas

General Comment: USFWS expressed their concern to the change in the distance at which offshore processors are allowed to encroach upon sensitive areas of the Pribilof Islands since the Preliminary Draft Permit and the Biological Assessment (BA) both had a 1.0 nmi exclusion distance from USFWS lands.

Response: In the Preliminary Draft Permit and the BA (that was still in draft) EPA proposed a 1.0 nmi exclusion zone for the National Wildlife Refuge and Steller sea lion haulouts. After the September 2 meeting and the questions raised about justification, EPA reviewed the NMFS regulations for Steller sea lion protection and found that it provides for a 3,000 ft (approximately 0.5 nmi) buffer. Additionally, the monitoring data gathered so far does not indicate any impact on the nearshore coastal area off the Refuge areas with processing discharges occurring within a 0.5 nmi exclusion zone.

The size of the exclusion zone the very issue that caused EPA, upon advice from the state of Alaska, to exclude the Pribilof Islands from the statewide seafood general permit issued in 1995 and its requirement that no discharge be authorized within 1.0 nmi of any refuge lands.

Public comments and testimony in 1994 declared that requiring the 1.0 nmi exclusion zone around the Pribilofs would essentially end processing by mobile vessels and put at risk the economic viability of the communities. EPA then issued the two year interim permit that allowed time for monitoring of the discharges on the seafloor, water quality, and benthic communities. When the results of the monitoring were reviewed, the level of impact appears to be minimal since most of the processing occurs during the winter months when there is a high level of hydrological activity in the receiving water and when most of the marine mammals and seabirds are absent.

EPA is requiring in the proposed final permit a biological monitoring that could provide information about the interaction of seabirds and marine mammals with the discharges that occur when they are present and the potential accumulation of wastes on the shoreline.

Comment: Recommend deletion of the reference to poor flushing. (Norquest, Yardarm)

Response: EPA has deleted the reference to poor flushing since the discharges in the Pribilof Islands are not in such an area. The Salt Lagoon would be the only area that could be designated as poor flushing and no discharge would be permitted there.

Comment: Numbering for subsections below Section 2.2 is inconsistent. (USFWS)

Response: EPA agrees with this comment and has revised this section to have consistent numbering.

Comment: The word "National" was left out of two references in the draft permit 2.1.2 (b) *sic* and 2.1.4 *sic* – National Marine Fisheries Service and Alaska Maritime National (USFWS) Wildlife Refuge.

Response: EPA has inserted "National" in these two references.

Section 3 of the Permit – Application to be Covered under this General NPDES Permit

Comment: The first paragraph refers to section 2.1 as where the pollutants authorized for discharge are listed; correct reference to 1.2. (USFWS)

Response: EPA has made this correction.

Section 4 of the Permit – Effluent Requirements

Comment: Recommend the last sentence of section 4.2.2 be re-written to read "Malfunctioning or undersized systems are prohibited. (USFWS)

Response: EPA concurs and has made this change.

Comment: Section 4.6.1 contains the term "appreciable" when referring to accumulations at the outfall pipe during inspections. Recommend this qualifier be deleted as it is vague and would require some subjective determination by a diver as to the presence (vs. absence) of an accumulation. (USFWS)

Response: EPA has deleted "appreciable" and put in place "there is no accumulation of any seafood processing wastes. . . ." An paragraph requiring each permittee to submit a letter certifying the absence or presence of any seafood processing wastes at the end of the pipe(s) within 30 days of the second and fourth year inspections have been added.

Section 5 of the Permit – Monitoring

General Comment: The seafood processors have devoted considerable time and money to effluent sampling and environmental monitoring in recent years by conducting water quality, sediment quality, benthic community, and seafloor monitoring. The results of monitoring demonstrate that seafood processing operations are not adversely affecting the Pribilof Island environment. The processors endorse EPA's decision to focus on effluent sampling and characterization in the future, rather than requiring broad-based monitoring of the receiving environment. Based on data collected, there is no reason to believe that processing effluent will adversely affect water quality, sediment quality, benthic communities or seafloor conditions absent a significant change in the characteristics of effluent being discharged. (Bogle)

Response: EPA appreciates the endorsement of the effluent characterization monitoring program and will require a more extensive monitoring program for water quality, sediment chemistry, benthic community, and seafloor monitoring if there is a significant change (in quantity or nature) in the effluent from the seafood processing discharges.

General Comment: Request monthly monitoring at each shorebased outfall and at a control site year-round for a minimum of two years, including analysis of water, sediment, and localized invertebrates (urchins, mussels, etc.). Samples of the discharge mix should be collected during monthly monitoring prior to release into the water column. (NMFS)

Response: Monthly monitoring of water quality, sediment chemistry, and invertebrates may provide a large quantity of data, but will not provide quality information for assessing the cumulative impacts on sediments and benthic community since such impacts can only be measured over the long term.

Almost 100 percent of the discharge from the processors occur during January, February, and March when there is an increase of wind-induced waves and currents in the nearshore coastal waters which prevents the solid wastes from settling on the bottom of the seafloor thus reducing the likelihood of sediment and infaunal impacts. The wastewater discharges are well-mixed in the high energy receiving waters. Shorebased processors have been discharging mostly crab wastes into the Pribilof nearshore under general permits for the past five years with no evidence of waste piles. The city of St. Paul has been discharging from their septic treatment system since 1989 and had discharged untreated sewage previously. Yet the sediment and water quality monitoring program done in 1997 did not detect any anthropogenic impacts in the discharge areas and will serve as a baseline for further studies.

In an effort to add to the data on potential impacts in the St. Paul stationary outfall discharge area , EPA will add a sediment chemistry study to the final permit as follows:

> The three seafood processors (Unisea, Trident, and Arctic Star) discharging from the stationary outfalls on St. Paul and the city of St. Paul will be required to conduct a sediment chemistry study during the summer of 2001. These processors discharge the most wastes (14 million lbs in 1998) and along with the city of St. Paul's continuous discharge through the stationary outfalls are the most likely dischargers to impact the areas adjacent to the outfalls.

General Comment: Recommend monthly reporting during processing, rather than quarterly and requests that NMFS received in a timely manner copies of all discharge monitoring reports submitted to EPA. (NMFS)

Comment: EPA has changed the reporting frequency from quarterly to monthly; in addition, the results of all effluent sampling are to be submitted within 30 days of when each sample is analyzed.

The 2001 sediment study at the St. Paul stationary outfalls will be submitted 60 days of when the samples are analyzed. The results from the discharge monitoring reports will be sent to NMFS and USFWS service in a timely manner by EPA.

General Comment: Weekly samples of discharge effluent should be collected at the shore-based processing plants and municipal sewer facility. (NMFS)

Response: The logistics of conducting a weekly sampling program would be extremely difficult without adding any new significant data. The constituents of the discharges from the processors and the city are unlikely to change from what has previously been analyzed from three sampling studies. In an effort to control the two volatile organic compounds (toluene and 1,4,-dichlorobenzene) the city of St. Paul to develop and implement a community program of how to dispose of household hazardous products safely rather than pouring down sinks and toilets.

There will be sampling of the seafood processing discharge for conventional pollutants no less than two times (and potentially up to four times) during the winter crab season for both shorebased and mobile vessels operating within three nautical miles of the Pribilofs.

EPA has changed the city of St. Paul's monitoring program as follows:

> Conventional pollutants and volatile organic compounds one time each in February and May and four times between August 1 and September 30. The city's discharge is the one mostly to contain pollutants that may have an impact on the receiving water and the sediments.

To require the amount and level of sampling as described in the comment could potentially be subject to challenge as arbitrary and capricious based on the existing record. The proposed sampling far exceeds the amount of sampling EPA requires of major industrial wastewater facilities who discharge far more chemicals and pollutants throughout the year.

Additionally, If there is a change in the effluent discharges characteristics and/or if there are wastepile accumulations which may potentially impact the marine environment, the permit allows for EPA and ADEC to require water quality, sediment chemistry, and/or benthic community monitoring.

General Comment: Request monthly monitoring at each shorebased outfall and at a control site year-round for a minimum of two years, including analysis of water, sediment, and localized invertebrates (urchins, mussels, etc.). Samples of the discharge mix should be collected during monthly monitoring prior to release into the water column. (NMFS)

Response: Monthly monitoring of water quality, sediment chemistry, and invertebrates may provide a large quantity of data, but will not provide quality information for assessing the cumulative impacts on sediments and benthic community since such impacts can only be measured over the long term.

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Additionally, If there is a change in the effluent discharges characteristics and/or if there are wastepile accumulations which may potentially impact the marine environment, the permit allows for EPA and ADEC to require water quality, sediment chemistry, and/or benthic community monitoring.

General Comment: Random, periodical site visits by EPA or another independent agent should be made to the municipal sewage facility and processing plants, including floating processors, to sample effluent at its source. Samples should be promptly analyzed for the presence of hydrocarbons, toxic and other pollutants prohibited by the permit. Site visits should occur at the sewage facility a minimum of four times annually, and at the processing plants a minimum of two times during seasonal activity during the life of the permit. (NMFS)

Response: This comment addresses EPA activities which cannot be included as a requirement in an NPDES permit. EPA cannot commit its resources to inspect and sample the dischargers at the level requested. It is possible that EPA may inspect and sample the dischargers at least once during the

period of the permit. However, EPA will conduct inspections and sample the dischargers when it deems necessary given its many priorities and limited resources.

The NPDES program is a self-reporting program and EPA relies on the permittees to sample and report as required. EPA would sample for the expected pollutants; it is unlikely that seafood processing wastes and wastewaters would contain hydrocarbons or toxics in levels that could be detected since such constituents in the discharge would indicate contamination of the food product. Also an elevation beyond what is expected in oil and grease testing (which is a conventional pollutant) would indicate if there could be other contamination from an oil source.
General Comment: A laboratory pilot study of the sewage/shellfish/finfish mix proposed to be discharged under this permit should be conducted to examine the species composition, in-situ growth potential and any other observable effects on the local near shore and shoreline environment. (NMFS)

Response: EPA will continue to pursue a way to determine if the mix of sewage and processing wastes creates pathogens in the discharge and if such pathogens have any possible effect on the marine environment including shoreline accumulations. This will not be an easy task but EPA will work with concerned parties to see if this can be done and to initiate a pilot study if feasible.

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Comment: Section 5.1.2 Vessels – Appreciates the deletion of the requirement for mobile vessels to

conduct a seafloor survey. (Snopac, Yardarm)

Response: EPA deleted the seafloor survey for mobile processors because the two surveys, in 1996 and 1997, showed no accumulations of wastes in the areas where the mobile processors processed. The surveys found that the currents were very strong and that even though 5,000 000 pounds of waste (in 1996) were discharged at 96 sites around the island, no waste accumulation was found.

Comment: Section 5.2.2 Seafloor Monitoring Objective – Concern that conducting seafloor surveys only in years 2 and 4 are inadequate to monitor accumulations which may persist through a year. (USFWS)

Response: There have been at least four seafloor surveys conducted at the stationary outfalls on St. Paul and two surveys at the St. George outfall. No accumulations have been found. With the strong currents across the seafloor the wastes have been transported out into the circulation pattern that goes northward from St. Paul and St. George into an easterly direction and depending on the winds the wastes are usually taken away from the islands. With the majority of the discharge of wastes occurring during the winter months and with the results from previous surveys, EPA will require surveys of the outfalls only in year 2 and 4. This section on seafloor surveys is to set forth the requirements if and when a seafloor survey is triggered by information that there is an accumulation.

Comment: Section 5.2.3 needs to be changed to agree with section 4.6.1 that any accumulation of seafood wastes found at the end of the stationary outfalls would trigger a seafloor survey by the permittees discharging through the outfalls. (USFWS)

Response: EPA concurs with this comment and has changed section 5.2.3 to the recommended language that agrees with section 4.6.1.

Comment: Section 5.2.4 states “If a seafloor survey is requested to be conducted buy EPA. . .”; this is unclear as to whether EPA has to request the survey if accumulations are found at the end of the outfall. Section 5.2.3 states that processing permittee shall participate in a survey. For clarity, recommend 5.2.4 be changed to read “A seafloor survey shall include . . . .” (USFWS)

Response: EPA has changed the language to be consistent and to identify which permittees would be required to conduct a seafloor survey.

Comment: Section 5.2.5 – Concern about the wording used to describe an accumulation: ”evidence of “an” accumulation.” Recommend “any” accumulation. Also recommend changing the portion that pertains to “consideration for the time of year.“ (USFWS)

Response: EPA concurs with the concern and substitutes “any” for “an.” EPA also changes the language following consideration for to read “local weather and sea conditions.”

Comment: Section 5.2.3 – identification of seafood processing permittees needs to be consistent with Section 5.2.5 “seafood processors discharging through the stationary outfalls.” (USFWS)

Response: EPA agrees with this comment and has changed Section 5.2.3 to be consistent with Section 5.2.5.

Comment: Recommend section 5.2.6 read “Results of the seafloor survey shall be submitted to EPA

and ADEC within 45 days following completion of the seafloor survey." (USFWS)

Response: EPA concurs with this recommendation and had adopted this language.

Comment: Concern that vessels anchoring 0.5 nmi offshore of seabird nesting cliffs cannot adequately monitor shorelines for accumulated debris or wastes (section 5.3). (USFWS)

Response: EPA recognizes this concern and expects vessels to work with the shorebased processors to make sure the shorelines are inspected during the periods of processing.

Comment: Section 5.3.2 includes a reference to persistent mats of foam. Recommend that "persistent" be deleted as it requires subjective judgement or define persistence. (USFWS)

Response: EPA will delete "persistent" since the presence of mats of foam would be enough to trigger reporting.

Comment: Recommend that the phrase "waste" or "waste accumulations" in sections 5.3.4 and 5.3.5 be consistent for clarity's sake. (USFWS)

Response: EPA concurs with the need for clarity and will use waste accumulations as the consistent phrase.

Comment: Section 5.4.3 Applicability: All permittees should monitor equally. There is no logical reason to relax the monitoring frequency requirements for a floating processor as compared to a shore plant. A floating vessel has an equal probability to create a pollution problem and if there is a pollution incident, then the source could be determined with a reasonable degree of accuracy. The relaxation of monitoring for a vessel which has not operated in the Pribilofs in the previous two years nor plans to operate in the following two years doesn't make any sense. (Snopac)

Response: EPA agrees that all permttees should monitor equally and has changed the final permit to require shorebased and floating vessels to monitor at the same levels during the winter crab processing. The language about vessels previously operating or future operating has been deleted: all permittees must participate in the effluent monitoring program.

Comment: Section 5.4.6 Schedule: Sampling frequency should be the same for shorebased and floaters since the potential environmental damage is not just to sediment beds but a contaminating discharge from bilge, sewage, diesel, hydraulic fluids or other contaminant is more likely from floaters. Suggests maximum of four samples per each winter processing season with sampling conducted every two weeks from both shorebased and floaters. (Snopac)

Response: EPA has changed section 5.4.3 to require no more than four and at least two samples of conventional pollutants starting two weeks after processing begins and continuing at two week intervals until the season is over. Also, one of the samples may be taken during a cleanup period.

Section 6 of the Permit -- Special Conditions and Requirements

Comment: Recommend section 6.1 make reference to one or the other of the exclusion zone described in section 2 as Areas of Special Concern and Poor Flushing. (USFWS)

Response: EPA has deleted the section describing Poor Flushing and the phrase Areas of Special Concern so the reference will only relate to the Excluded Areas.

Comment: Section 6.1.2, Processing and Transit in the Exclusion Zone – the phrase "shall make all efforts to halt . . . discharges" should be changed to read "shall not discharge . . . " Additionally, refueling within the exclusion zone should be "prohibited" not just "avoided." If the weather is so difficult as to require anchoring within the 0.5 nmi of shore, then it is probably "blowing too hard" to allow safe fueling. (Snopac)

Response: EPA agrees with both of the recommended language changes and the final permit reflects that there shall be no discharge within the 0.5 nmi exclusion zone when the mobile vessel, for safety concerns, goes into the zone and that there shall be no refueling.

Comment: Section 6.2 "grandfathers" the existing outfalls on St. Paul even though they are technically within the 0.5 mile exclusionary zone. Request language be added which will enable any future operators desiring to construct an outfall at such location on St. Paul provided they can demonstrate that a newly constructed outfall will extend beyond the 0.5 nmi and comply with all other requirements of the permit. (Owens)

Response: EPA has added a new subsection 6.2.2 which addresses this request. However, the new subsection is not a preapproval of the discharge to a new outfall even beyond 0.5 nmi without an NOI.

Comment: The Anderson building was the first seafood processing plant on St. Paul and discharged through a single joint outfall (with the city's domestic wastewater line). The outfall line was disconnected and rerouted for use by one of the plants at the harbor. Request language which will authorize any future applicant proposing to engage in seafood processing at any of the existing shore-based facilities the right to either tie into and discharge through an existing outfall line or to construct a new replacement outfall for use in conjunction with such existing facilities and discharge seafood processing waste through it on the same terms and conditions and location as the other processors using the existing outfall lines authorized under this permit. (Owens)

Response: The comment has two incorrect premises: one that the "outfalls" are grandfathered; and two, that a new operator at the Anderson Building would be processing at an existing facility. Under the NPDES program, EPA authorized discharges, not facilities. The language in the permit has been changed to clarify that the dischargers previously permitted to discharge from existing stationary outfalls on St. Paul and St. George may apply for authorization under the general permit. The specified dischargers have been given an exception from the 0.5 nmi exclusion zones around the Steller sea lion haulouts, northern fur seal rookeries and haulouts, and bird-nesting areas because they are existing discharges where data and biological assessments have indicated that they have not adversely impacted the marine environment in or around the discharge points. The resource agencies have accepted these discharges within the exclusion zone on the premise that new discharges would be outside of the exclusion zone established for the protection of the marine resources under their jurisdiction. To be covered by the general permit, all other discharges from shorebased or floating vessels must be outside of the 0.5 nmi exclusion zones as provided in section 2 of the permit, unless one of the conditions in section 6.1.1 and 6.1.2 apply.

The permit that covered the Anderson building processor was transferred to Trident Seafoods. The Anderson building (and the city) were connected to the outfall that was broken off close to shore and

abandoned. A new operator desiring to process seafood out of the Anderson Building would be a new discharger and its discharges would need to be outside of the 0.5 nmi exclusion zone.

Comment: Section 6.3 states that "Seafood wastes . . . and unground snail shells may be disposed of by . . . " Clarify that shorebased processors not grinding their snail shells should be required to discharge those wastes as the mobile processors are required to do. (USFWS)

Response: Section 6.3 pertains to ocean disposal from shorebased facilities that for some reason cannot discharge through their stationary outfalls or are processing sea snails. The language is this section was changed to clarify that shorebased facilities only have the option for ocean disposal. Returning unground sea snail shells to the harvest area may be beneficial for biological reasons. Vessels do not process sea snails nor are vessels allowed to ocean dump under this provision since they already discharge ground wastes at sea.

Comment: Section 6.3.1 states that no disposal shall occur if marine mammals are observed in the disposal area. Recommend this section include avoiding discharging near concentration of seabirds (100+ individuals) as well. Define disposal area. (USFWS)

Response: EPA concurs with this recommendation and has incorporated the addition of no discharge if seabirds are observed in the disposal area. The "disposal area" is where the depth is at least 45-50 fathoms and the noted distance from St. Paul or St. George.

Comment: Section 6.4.3(b) states "Seafood processors shall adhere to existing local, state, and federal health requirements for exclusion of pests (e.g., rats) in and around the shorebased facilities and on-board processing vessels." Recommend adding "ordinances" after local and adding "law and other " after federal. (USFWS)

Response: EPA has added these phrase to section 6.4.3(b) and changed adhere to "comply with."

Section 10 of the Permit – Non-Compliance Reporting Requirements

Comment: Section 10.1.4 Environmental Effect include "persistent" and "visible" – for clarity and consistence, recommend these terms be defined or deleted. (USFWS)

Response: EPA has deleted these two words because they are ambiguous and subjective.

Section 11 of the Permit – General Compliance Responsibilities

Comment: Section 11.1 and 11.2 refers to penalties for violating permit conditions. Concern is that a violation of a local ordinance (as described in Section 6.4.3(b), for example) would not result in an EPA enforcement action. Request clarification of what would happen if a processor failed to comply with the local ordinance concerning rat prevention. (USFWS)

Response: Section 11.1 that says nothing in the permit can relieve permittees of requirements of federal and state law or regulations and local laws and ordinances. The permit requires compliance with local ordinances, such as rat prevention, to ensure such pests are not improperly discharged or affect the discharge. With information that a processor allegedly violated this condition, EPA would

investigate and determine if there was evidence that a processor was careless in rat prevention. A violation of the permit must occur for EPA to issue an enforcement action. However, just the presence of a rat in the harbor area during processing periods may not constitute a violation of this condition. The presence of the rat would need to be directly tied to carelessness or inattention to rat prevention on the part of the processor. The presence of a rat or rats in the processing facility or on-board a vessel may more likely trigger an enforcement response. Keep in mind that the presence of rats would jeopardize the ability of the processor to market the product. The processors must pass muster with the Food and Drug Administration as to the control of pests in the processing facility by preparing a control plan.