

**Department of Environmental Conservation  
Response to Comments**

**For**

**Onshore Seafood Processors in Alaska General  
Permit**

**APDES Permit No. AKG521000**

**Public Noticed February 26, 2021 – April 27, 2021**

**October 29, 2021**



**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 issue an Alaska Pollutant Discharge Elimination System (APDES) general permit to operator(s) or owner(s) of onshore seafood processing facilities located in Alaska that discharge seafood processing waste and wastewater to waters of the U.S. The permit authorizes discharges to receiving waters statewide.

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 request mixing zones larger than the general permit defined standard 100-foot mixing zone for each outfall. Applicants may also request up to a 1.0 acre (43,560 sq. ft.) zone of deposit (ZOD) to allow deposits of seafood residues in marine and estuarine waters.

### 1.2 Opportunities for Public Participation

DEC proposed to issue an APDES wastewater discharge general permit, *Onshore Seafood Processors in 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 August 13, 2020
- posted a preliminary draft of the permit online for a 10-day applicant review October 5, 2020 and notified tribes, local government(s), and other agencies
- formally published public notice of the draft permit on February 26, 2021 in the Anchorage Daily News, Juneau Empire, and the Bristol Bay Times and posted the public notice on the Department's public notice web page
- posted the proposed final permit online for an 11-day applicant review on August 23, 2021
- held a virtual public meeting to provide an overview of the Response to Comments document on September 2, 2021
- 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 eight interested parties on the draft permit and supporting documents. One set of comments was received after the 60-day public comment period. 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 received one set of comments from NMFS after the close of the public comment period.

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

### 1.3 Final Permit

The final permit was adopted by the Department on October 22, 2021. 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 requesting sufficient time 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 to complete the requirements for a complete Notice of Intent (NOI), including time for the mixing zone evaluation process and facility modifications to be completed.

#### **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 NOI application 90 days prior to the effective date of the permit to continue coverage under this permit. Permittees may submit their NOI applications prior to the required application date to begin the mixing zone evaluation process.

The Department edited Table 1: Schedule of Submissions and Permit Part 1.6.1 to require operators with existing coverage under the AKG520000 permit to submit their completed NOI 90 days prior to the effective date of this permit. The AKG520000 permit will expire upon the effective date of the AKG521000 permit.

### 2.2 Comment Summary

Comment was received stating that the new permit requirements will be difficult and expensive to comply with and would impose significant additional costs on the processors.

#### **Response:**

The Department has updated the AKG521000 permit with requirements that are consistent with other APDES permits, including the AKG528000 Seafood Processors Operating Onshore Facilities in Kodiak, AK General Permit and the AKG523000 Offshore Seafood Processors Wastewater Discharge General Permit. The AKG521000 permit is replacing the AKG520000

Seafood Processors in Alaska General Permit, which was last issued in 2001. The Department is required to include permit limitations that protect the existing uses of the receiving water and that do not degrade or further degrade the receiving water, except as allowed by regulation. The Department has reviewed the new permit requirements in the AKG521000 and has determined these additional provisions are necessary to protect the waters of the U.S.

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

### **2.3 Comment Summary**

Comment was received expressing concern that the DEC engineering division is expected to receive a significant influx of plan review submittals from the subject facilities listed in Appendix D. The commenter requested that the Department issue a statement providing interim permit coverage until the Final Approval to Operate (FATO) is received.

#### **Response:**

The Wastewater Discharge Authorization Program (WDAP) coordinates with the DEC Engineering Support and Plan Review (ESPR) program on a per project basis. Permittees that submit a complete NOI application to WDAP and required documentation to ESPR may not necessarily be required to receive FATO from the ESPR program prior to the Department issuing an APDES authorization. The Department will review all submitted information and determine if an APDES authorization may be issued prior to receipt of the FATO,.

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 1.7)

#### 3.1 Comment Summary

Comments were received requesting clarification of Part 1.3.8. to indicate that the prohibition does not include Moored Craft and Barges. One commenter also requested clarification that Part 1.3.8 refers to discharges from processing vessels operating offshore (more than 0.25 miles from shore) to avoid confusion with the conveyance of seafood processing waste and wastewater from a support vessel to a shorebased treatment system, catch transfer water conveyed to the seafood facility, or authorized discharges from support vessels moored/docked as provided in Part 2.1.9.

##### **Response:**

The commenter incorrectly states that the “Moored Craft and Barges” are defined in Appendix C as “vessels”. Appendix C defines Permanently Moored Craft/Barge as “Those permanently moored craft (PMC) and barges that operate independently of an onshore seafood processing facility. PMC and barges remain stationary and discharge in the same location throughout the processing season”. Fact Sheet Part 1.7.7 further explains the prohibition on vessels as set forth in Permit Part 1.3.8, which does not include PMC and barges. The vessel prohibition in Permit Part 1.3.8 applies to discharges associated with disposal by vessel in inland waters of the U.S. behind the baseline, as covered under the 2018 AKG523000 General Permit in Permit Part 1.1.4.

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

#### 3.2 Comment Summary

Comment was received that the Department has chosen to include a vessel’s live tank water in the definition of catch transfer water despite this water never being used to transfer crab to the facility. Live tank water is an incidental discharge from the vessel and exclusively part of the normal operation of the vessel. Comment was also received that Part 2.1.8.7 contains a section that is an assertion by the Department that does not clarify any permit regulation or intent and adds no value to the permit.

##### **Response:**

The definition of catch transfer water in Part 1.2.1.1 only covers catch transfer water (delivering vessel fish hold waste and wastewater, live tank water, refrigerated seawater, or brine) conveyed to an onshore seafood processing facility. Appendix C Definitions also emphasizes the same language, “conveyed to an onshore seafood processing facility from a vessel as part of the offloading process.” If a vessel’s live tank water is not conveyed to the facility the definition in Part 1.2.1.1 and Appendix C does not apply.

The Department made the following edits to Part 2.1.8.7 to address the last comment.

**2.1.8.7** For a facility’s “Other Wastewaters” that comes into contact with seafood waste not sent through the seafood processing waste treatment system, the permittees shall remove seafood processing waste solids prior to discharge to waters of the U.S. Seafood waste solids discharges shall be ~~less~~ smaller than 1.27 cm (0.5 inch) in any dimension. This ~~shall include the discharge of live tank waste and~~ catch transfer water discharges. ~~that often contain large solid pieces of seafood (e.g. small fish, fish heads, and internal organs).~~

### 3.3 Comment Summary

Comment was received regarding the updated NOI requirements and the ability of the Department to review and approve updated NOIs consistent with the timelines and requirements laid out in Part 1.6.3 - 1.6.5. Minor changes that do not involve ESPR and do not change any outfall location, mixing zone, or ZOD should not be subject to the requirement to submit the amended NOI at least 30 days in advance. Comment was also received that for permittees that have submitted unrelated (production changes) NOI updates, in-progress Approval to Construct, Interim, or Final Approval to Operate application status should not affect NOI authorization issuance if facilities are in good standing with ESPR.

#### Response:

The Department understands the concerns raised about Parts 1.6.3 – 1.6.5 and has edited those Parts as follows (additions are underlined below). With regard to the last comment, it is currently the case that ESPR status does not necessarily preclude NOI update approval. Authorization issuance is on a case-by-case basis depending on the situation.

**1.6.4. Updated NOI.** A permittee with current coverage is required to submit an updated NOI under the following circumstances ~~at least 30 days prior to the following:~~

**1.6.4.1.** A permittee's current NOI on file requires modification (e.g., ~~new or changed ownership, management information, permittee,~~ authorized representative name or title, address, telephone numbers, production levels). Permittees shall submit these modified NOIs with the next Annual Report.

**1.6.4.2.** Any material change is proposed, including but not limited to: ~~discharge location(s), processing plant location,~~ discharge totals, ~~production levels, size of mixing zone or project area~~ ZOD boundaries zone of deposit, and commodity lines processed, ~~waste and wastewater treatment systems, or processes.~~ The material changes from the original NOI shall be clearly indicated on the new NOI.

**1.6.4.3.** Changes to waste and wastewater treatment system(s) occur. See also Part 1.6.3.

**1.6.5.** A permittee is required to submit an NOI at least 30 days prior to the changes under Part 1.6.4.2 or Part 1.6.4.3 and modified operations may not commence prior to receiving written approval from DEC

### 3.4 Comment Summary

Comment was received requesting clarification on the intent of the provision in Part 1.7.1.7. The commenter believes that the intent of the provision is to indicate that only permittees that do not have a current ZOD need to complete a ZOD analysis under 18 AAC 70.210(b); however, the reference to “new project area Zone of Deposit” is confusing since, technically, no current permittee has a project area ZOD.

#### Response:

As explained in the Fact Sheet Part 4.4.4, all newly assigned project area ZODs contained in and public noticed through the issuance of the permit in Appendix D shall be integrated into new AKG521000 permit authorizations without additional public notice. When a permittee listed in Appendix D submits an NOI for coverage under AKG521000, the permittee is not required to provide a complete ZOD analysis under 18 AAC 70.210(b).

The Department made the following revisions to the permit language to provide additional clarification on which authorizations under the general permit will be publically noticed by the Department (additions are underlined below).

**1.7.1.7 Zone of Deposit Request.** If Applicants requesting a ~~new~~ project area Zone of Deposit ZOD that is not included in or is modified from what is described in Appendix D - Table D1

must submit the information required in 18 AAC 70.210(b).

### 3.5 Comment Summary

Comment was received that Part 1.8.2.3 details conditions for discharging in excluded areas that require notice to the Department at least 60 days prior to implementing the change. As written, it is unclear whether notice must be given if a greater than 25% increase in the four-year annual average amount discharged occurs that is not due to material changes at the facility.

#### Response:

The Department made the following changes to Part 1.8.2.3 to provide additional clarification (additions are underlined below).

**1.8.2.3.** Existing ~~facility locations that discharge to~~ facilities discharging to an Excluded Area listed in Part 1.5 that propose to make material changes ~~at the facility~~, including but not limited to changes in the seasonality of operation, significant increases in amount of pollutants discharged (greater than a 25% increase from the ~~four-year annual average amount (weight)-waste discharged~~ previously-approved annual discharge limit), or changes in ~~the location of an outfall discharge location(s)~~, shall submit updated information 60 days prior to implementing the change. Public notice will be required for all changes under this Part.

### 3.6 Comment Summary

Comment was received that Part 1.10.1.1 requires that changes in facility location or discharge location require submittal of a NOT and a new NOI, which is not consistent with Part 1.6.4.2 that requires a permittee with current coverage to submit an updated NOI if there are proposed changes to discharge location or processing plant location. Part 1.10.1.2 requires that a proposed change to an outfall terminus requires submittal of an NOI at least 90 days prior to the relocation. The commenter requests clarification on which requirements apply to changes to processing facility or discharge location, Part 1.6.4 or Part 1.10.

#### Response:

Part 1.10.1.1 applies when a facility changes geographic location. Part 1.10.2 (previously Part 1.10.1.2) applies when a facility remains in the same location but intends to change the location of an outfall, stating that the permittee shall submit an updated NOI at least 90 days prior to the relocation. The Department added clarification to Part 1.10.1 and Part 1.10.2 (additions are underlined below) and refers the commenter to Comment Summary 3.3 above for additional language changes to provide clarification on which requirements apply to changes to processing facility or discharge location.

1.10.1. **Change in Facility Location.** Authorization under this permit is specific to a facility's geographic location and is not transferable if a facility changes location. If a permittee moves to a new location not listed in the APDES authorization, thereby changing the discharge location, the permittee shall submit a Notice of Termination (NOT) form for the former facility's authorization within 30 days of ceasing discharge from the facility. The permittee shall apply for coverage for a new facility and discharge location by submitting a new NOI. The permittee is not authorized to discharge at the new location until the permittee receives a new written authorization.  
~~1.10.1.1. Authorization under this permit is specific to the outfall(s) identified in the NOI, and a facility specified geographic location. If a permittee moves to a new location not listed in the APDES authorization, thereby changing the discharge location, the permittee~~

~~shall submit a Notice of Termination (NOT) form for the former facility's authorization within 30 days of ceasing discharge from the facility. The permittee shall apply for coverage for a new facility and discharge location by submitting a new NOI. The permittee is not authorized to discharge at the new location until the permittee receives a new written authorization.~~

**1.10.1.2. 10.1.2 Change in Outfall Location.** If a permittee intends to change the location or design of any outfall/outfall terminus, the permittee shall ~~contact the Department and~~ submit an updated NOI with the proposed new outfall location at least 90 days prior to the relocation.

### 3.7 Comment Summary

Comment was received that Part 1.10.3 requires the filing of a notice of non-compliance when a pipe has moved or is broken irrespective of whether there has been a discharge from the outfall. Such a report should only be required if there has been an unauthorized discharge. Comment was also received requesting that changes in GPS coordinates only be considered a repositioned outfall line if there is evidence of actual outfall line movement by a seafloor survey, other survey, or other means.

#### Response:

The Department has reviewed Part 1.10.3 and made the following edits to clarify the intent of the reporting requirement (additions are underlined below). Part 1.7.1.1 requests the accuracy of the outfall coordinates be at least within  $\pm 50$  feet in the NOI. With the margin of accuracy noted in Part 1.7.1.1, Part 1.10.3 would only apply if an outfall were observed to have actually moved greater than 50 feet away from its previously approved location.

**1.10.3. Broken or repositioned outfall line.** If the permittee identifies ~~in a Seafloor Survey, other survey, or by other means,~~ that the outfall has ~~been~~ moved or ~~has been~~ broken ~~outside the control of the permittee,~~ the permittee shall submit a notice of noncompliance for discharging to an unauthorized discharge location, in accordance with Appendix A, Submittal of noncompliance is not required if the line break has been identified and repaired prior to any unauthorized discharge.

**1.10.3.1.** The permittee shall attempt to repair or replace the outfall pipe in accordance with ~~Permit~~ Part 1.6.3. If the permittee is unable to ~~replace, or repair, the outfall in order to~~ replace the terminus at the previously approved location, the permittee shall apply for coverage at the new location in accordance with Part 1.6.4.

### 3.8 Comment Summary

Comment was received that Part 1.10.4 and 1.10.5 appear to be out of order with Part 1.10.3.

#### Response:

The Department has edited the permit to accurately organize Part 1.10.4 and 1.10.5. (additions are underlined below).

**1.10.2. New Operator.** ~~DEC may transfer authorization to discharge under this permit to another operator if:~~

**1.10.2.1.** DEC may transfer authorization to discharge under this permit to another operator if:

**1.10.2.1.1.** The new operator notifies the Department in writing of the proposed

transfer and submits a complete Name Change / Transfer of Ownership form. The new operator either confirms in writing that the commodity lines processed and volume discharged remains the same, and other information given on the original NOI remains correct, or the operator submits a modified NOI.

1.10.2.1.2. Neither the current permittee, nor the new operator has received notification of the Department's intent to terminate coverage under this permit within 30 days of the operator's transfer request.

1.10.2.2. The Department may continue coverage for a new operator under this permit or may require the new operator to apply for and obtain a different permit authorization.

1.10.2.3. Neither the current permittee, nor the new operator has received notification of the Department's intent to terminate coverage under this permit within 30 days of the operator's transfer request. The new operator is responsible for payment of any applicable permit fees.

## 4 General Requirements, Part 2.1

### 4.1 Comment Summary

Comments were received stating that flow meter and totalizer installation is unwarranted and unnecessary, and that the installation, maintenance, and access to these new meters is going to be expensive.

**Response:**

The only outfall that the permit requires to have a flow meter and totalizer installed on as of the effective date of the permit is the main seafood processing discharge outfall (Part 2.1.1.2). The Department has offset the installation of flow meters on other outfalls within 24 months of the effective date of the permit, which should allow the permittee additional time to plan and execute facility modifications. As noted in Fat Sheet Part 3.2.1, accurate flow records are needed to determine average flows for developing future proposed discharge and authorization limits, as well as to determine permit compliance (e.g., whether wastewater is discharged at unexpected times). Additionally, future permit reissuance may evaluate the size of a mixing zone, where the mixing zone modeling requires certain parameters, including accurate flow.

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

### 4.2 Comment Summary

Comment was received requesting that DEC include an exclusion to cease continuous flow metering on a seasonal basis based on the dates of a facility's operation as indicated on the NOI in accordance with Part 2.1.4.8.2.

**Response:**

The Department edited Part 2.1.2.1 to specify that metering is only required during periods of operation and discharge.

**2.1.2.1.** Installed or upon installation, the permittee shall continuously measure and record the effluent flow using a flow meter and totalizer during all periods of operation and discharge.

### 4.3 Comment Summary

Comment was received that Part 2.1.9.1 implies that all processing waste from a moored vessel must be discharged through the facility's onshore waste treatment system. Why is this necessary?

**Response:**

The AKG521000 permit covers the categories of Onshore Seafood Processing Facilities (Part 1.1.1), Permanently Moored Craft and Barges (Part 1.1.2), and Community Grinders (Part 1.1.3), and discharges associated with their respective fixed outfall locations. A processing vessel that seeks authorization to discharge directly from their vessel should seek coverage under the AKG523000 Offshore Seafood Processors General Permit.

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

### 4.4 Comment Summary

Comment was received that Discharge Monitoring Report (DMR) reporting seems unnecessary and doesn't serve a purpose. Comment was also received stating that DMR reports should be due on the 25<sup>th</sup> of the month due to difficulties with receiving laboratory results for the end of a previous month by the 15<sup>th</sup> of the following month.

**Response:**

The APDES Program is a self-monitoring program. Permittees collect and analyze samples, summarize the results in a DMR, and submit those results through a federal online reporting system. The Clean Water Act (CWA) defines DMR data as publicly available information, and DMR data is

housed in the Integrated Compliance Information System (ICIS) to make the data publicly available. According to our Appendix A, Part 3.2.1 (Standard Conditions), the permittee must record the lab result on the DMR by the 15th day of the month following when the samples were taken. This is standard Department policy. If the permittee is unable to submit the DMR by the 15<sup>th</sup>, the permittee should note on the DMR any problems that arose.

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

#### 4.5 Comment Summary

Comment was received requesting that the Department provide clarifying conditions or definitions under Part 2.1.12 to outline metrics that would ensure a permittee would “fully utilize to the extent practicable all by-product production processes available at the facility”.

##### **Response:**

Permittees are responsible for determining whether practicable factors would make it infeasible for a permittee to utilize all treatment processes at the facility. Permittees may refer to the Water Quality Standards regulatory definition for practicable at 18 AAC 70.910(48).

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

#### 4.6 Comment Summary

Comment was received concerning Part 2.1.4.8.6 and reporting hold time exceedances. Clarification was requested on whether a noncompliance notification (NCN) is required to be submitted if the permittee is able to fulfill the sampling requirement for the reporting period with a replacement sample, and whether the analysis of a sample with quality problems should be reported/included in averaging and flagged, or excluded from reporting. The commenter also requested clarification on whether Part 2.1.4.8.6 applies to other types of data quality anomalies such as hold temperature, laboratory errors, and laboratory quality assurance (QA) standards excursions.

##### **Response:**

The permittee should document on the DMR all data quality issues for the monitoring period, including laboratory errors, QA excursions, and hold temperature issues, etc. If the permittee is able to successfully re-sample during the monitoring period, the permittee does not need to report the initial hold time exceedance as a noncompliance event. The Department has added the following clarification to Part 2.1.4.8.6 (additions are underlined below).

**2.1.4.8.6.** The permittee shall identify on the DMR or cover letter if the sample arrived outside required analytical method hold times, and shall submit a noncompliance notification per Appendix A, Part 3.5 if an acceptable replacement sample was not collected and analyzed for that monitoring period.

#### 4.7 Comment Summary

Comment was received requesting that the Department add language to the permit to allow a waiver from required monitoring in Table 3, Table 4, and Table 5 if the permittee can demonstrate they have historically been unable to perform sampling by demonstrating through multiple (three or more) shipping attempts that the samples cannot arrive within required hold times.

##### **Response:**

The Department acknowledges the logistic difficulties and remote nature of sample collection and analysis under the permit. However, due to the short operating window for many of the facilities under this permit, they may only be required to collect one or two sample sets per year. During this permit cycle the Department is requiring effluent and receiving water monitoring to assist in developing future discharge and authorization limits. If samples cannot arrive within the required hold times, the permittee shall report the data through NetDMR and flag the parameters that arrived

outside of the hold time.

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

#### 4.8 Comment Summary

Comment was received that Part 2.1.5.3 provides for exceptions to the -60 foot mean lower low water (MLLW) discharge depth requirement. Recognizing the provisions in Part 1.5.4, the commenter requests that an additional basis for such an exception be added for water bodies with greater than 0.33 knot average currents.

##### Response:

The Department has added the requested provision to Part 2.1.5.3 (additions are underlined below).

**2.1.5.3.** A permittee may apply for a reduction to the required discharge depth for marine, estuarine or fresh waters if complying with the depth requirement is prohibitive due to extreme site-specific circumstances (e.g., tidal flat in Bristol Bay, Naknek River low tide depths, Yukon River at low tide, etc.) and if the average current exceeds 0.33 knots. See Appendix D for a list of existing facilities authorized to discharge to a depth not meeting Parts 2.1.5.1 or 2.1.5.2.

#### 4.9 Comment Summary

Comments were received that Part 2.1.5.3.1 prohibits any discharge during periods when the outfall terminus is not submerged. This provision would require many facilities located in areas that experience extreme low tides to cease processing for many hours per day. Such an interruption in operations would create a severe and unacceptable economic impact on processors and fishermen.

##### Response:

Over the previous permit term, the Department 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. during periods of extreme low tides. The Department's Compliance and Enforcement staff have also documented buildup of processing waste along shorelines, docks, and loading areas of processing plants in regions including Bristol Bay, Naknek River, and Egegik. The waste buildup was specifically in areas where the outfall terminus had not been submerged, or had recently become re-submerged.

The Department understands the industry's operational and economic concern, and has edited the permit language to address those concerns (additions are underlined below):

~~2.1.6.3.1~~ **2.1.5.3.1.** If a permittee discharges during ~~During~~ extreme negative tide conditions that result in a "no-water" condition at the outfall terminus, the permittee must conduct sea surface and shoreline monitoring (in accordance with Part 2.3.6) at the end of the "no water" condition and at the beginning of the next "no water" condition and document whether any seafood waste residues accumulation is observed. If any is observed, the permittee must develop and implement updated BMPs under Part 2.5.6.7.18 as required by Part 2.5.7.4. ~~operations shall cease once the sump is full. The facility shall not resume operations until the outfall terminus is submerged, and shall clearly state in the BMP Plan that discharge will not occur during any period when the outfall terminus is not fully submerged.~~

~~2.1.6.4~~ **2.1.5.4** The permittee must receive written approval from DEC before discharging to

prohibited depths. The permittee's request to discharge at depths less than required in Parts 2.1.5.1 and 2.1.5.2 shall include, at a minimum:

~~2.1.6.4.1~~ 2.1.5.4.1 Site-specific information about receiving water bathymetry, currents or flows, and the historic effects of past discharges to water quality.

~~2.1.6.4.2~~ 2.1.5.4.2 Distances / length of pipe required to obtain required depth.

~~2.1.6.4.3~~ 2.1.5.4.3 The presence of any historic seafloor or shoreline seafood deposit accumulations and estimated potential cost(s) for modifications of the outfall to comply with the depth provisions in Parts 2.1.5.1 and 2.1.5.2.

2.1.5.5 Failure to meet the permit conditions, including Part 2.1.5.3.1 and Part 2.1.5.6, may result in a modification to the discharge authorization revoking the reduction to the required discharge depth found in Parts 2.1.5.1 and 2.1.5.2.

~~2.1.6.5~~ 2.1.5.6 The discharge may not cause foam or sea surface residues outside the boundary of an approved mixing zone.

#### 4.10 Comment Summary

Comments were received that Part 2.1.6.2 eliminates the waiver from the 10 million-pound limit on the discharge of waste provided in the current permit (Section V.C.1.a). The current permit provides the ability to seek such a waiver if certain conditions can be met. ADEC fails to recognize that eliminating the waiver could force processors to curtail operations, severely adversely affecting fishermen and the economies of the communities in which they are located. Comments were also received that without the waiver provision in the permit, operational limitations and increased costs will be incurred by the processing plants. The waiver provision should be included in this Draft Permit.

##### **Response:**

There is evidence which indicates that the amount of seafood processing waste residue discharged by a facility can cause or have reasonable potential to cause or contribute to a violation of the Alaska water quality standard (WQS) for seafloor residues outside of the 1.0 acre ZOD and in contravention of the ZOD requirements. Historical reports of seafloor dive surveys around processor outfalls indicate that exceedances of the 1.0 acre ZOD occur at a number of shore-based seafood processors currently permitted under the AKG520000 permit. Historical annual report data of the pounds of seafood processing waste discharged from those facilities indicate that levels of waste discharged neared or exceeded 10 million pounds of seafood processing waste residues per calendar year. Waste piles in excess of 1.0 acre on the seafloor are a violation of the state-authorized ZOD and the Alaska WQS. Deposited seafood waste that leaches from or is resuspended from the waste pile is also a violation of the authorized ZOD and WQS. Sufficient evidence exists to support that larger volumes of waste discharged can cause, or have the reasonable potential to cause or contribute to excursions above the state WQS.

The Department continues to rely on the modeling-established effluent limit of 10 million pounds per year (lbs/yr). EPA previously relied upon deposition modeling conducted by Tetra Tech (1996) which determined that a discharge of 12 million lbs/yr of settleable solid seafood processing residues would produce a 1.2 acre waste pile. Tetra Tech used EPA's WASP model in conjunction with the contouring software SURFER in its modeling analyses. In developing permit limits for seafood processing waste residues, EPA employed a straightforward algebraic equation:

$$X \text{ lbs per yr} / 1.0 \text{ acre} = 12,000,000 \text{ lbs per yr} / 1.2 \text{ acre}$$

$$X = (12,000,000 \text{ lbs per yr} / 1.2 \text{ acre}) \times 1.0 \text{ acre}$$

$$X = 10,000,000 \text{ lbs per calendar year}$$

The effluent limit of 10,000,000 lbs per calendar year on seafood processing waste residues is protective of the Alaska WQS for residues and is necessary to achieve the standard. The results of the model are borne by the fact that the majority of facilities that discharge under the existing

general permit discharge less than 10 million lbs per calendar year, and have waste piles less than 1.0 acre and no other reported water quality problems. The Department's information indicates that processors with discharge volumes around or in excess of 10 million lbs/yr have waste piles larger than 1.0 acre and/or have other water quality problems. The Department reserves the right to decline a facility coverage under this general APDES permit if the record of its discharges and its seafloor dive surveys indicate that the facility requires an individual APDES permit in order to control its pollution and to protect Alaska WQS.

While the Department understands the concerns expressed about operational limitations and increased costs incurred by the processing plants, the Department does not issue general permits based on operational decisions for a permittee. The processors have a number of options available to them to avoid discharging beyond the 10-million pound limit in the permit (e.g., by-product utilization, alternate methods of disposal, including inland waters discharge disposal under the AKG523000 General Permit, or At-Sea Dumping approved by EPA).

During the AKG521000 permit cycle. Processors looking for authorization to discharge in excess of the 10 million lb. permit limit have the option to apply for individual permit coverage.

The Department would be receptive to revisiting the 1993 modeling and reviewing an updated modeling effort as submitted by the seafood industry. The Department would encourage industry to provide a new modeling effort as well as a cost-benefit analysis demonstrating the need to exceed the 10-million pound permit limit.

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

#### 4.11 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.

The CWA carries strict liability for discharging pollutants from a point source to waters of the United States (WOTUS). The seafood processors in Alaska 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 2.1.8.9.2, the processing plants must monitor catch transfer water upon discharge whether it is discharged through their main seafood processing outfall (under Permit Part 2.2.4) or discharged back to a vessel (under Permit Part 2.2.6).

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

#### 4.12 Comment Summary

Several comments questioned DEC's authority to hold permittees responsible for vessel operators' actions. Comment was received stating that the provisions in Part 2.3.6.5 and Part 2.3.6.8 reference discharges from fishing boats tied up to permittee's docks. The permit and/or the Fact Sheet should make clear that these are merely reporting requirements and that discharges from fishing vessels while secured to a seafood processing facility are not covered by the permit. 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 4.11, 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 seafood process wastewater 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)) for discharges covered by this permit.

Part 2.1.8.9.2 – Part 2.1.8.9.4 clarify that each shore-based permittee is responsible for ensuring that seafood process wastewater 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.

The Department clarified that other discharges are not covered under AKG521000 and discharges unrelated to seafood processing waste would be outside the scope of the permit and may be unrelated to the permittee. 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.

#### 4.13 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.

##### **Response:**

As discussed in the response to Comment 4.11, catch transfer water conveyed to a shore-based facility is considered part of that facility's process wastewater. Additionally, per the response to Comment 4.12, 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.

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

#### 4.14 Comment Summary

Comments were received that the provisions in Part 2.2.2 and Part 2.6.5.5 that require information in monthly DMR's to be summarized in the Annual Report are a duplication of effort and impose an unnecessary paperwork burden on the permittees.

##### **Response:**

The Department made the following edits to Part 2.2.2 and removed Part 2.6.5.5 to reflect industry's concerns (additions are underlined below).

**2.2.2.** The permittee shall record monitoring results on a monthly DMR and submit the DMR by the 15th day of the following month. ~~The permittee shall submit a summary report of pollutants monitored and monitoring data with the Annual Report (Part 2.6).~~

~~2.6.5.5. Summary report reflecting results from DMR data, including seafood processing waste and wastewaters outfall(s) monitoring (Part 2.2.4 and Part 2.2.5) and "Other Wastewaters" outfall(s) monitoring (Part 2.2.6) (Attachment E-1 and E-2).~~

#### 4.15 Comment Summary

Comment was received questioning how the Department will objectively use the Part 2.1.11.3.1 criteria to determine that a discharge is a nuisance. The comment stated that clear guidelines should be in place for facilities and inspectors to objectively decide whether any fish or wildlife present near an outfall should be considered an undesirable or nuisance species.

##### **Response:**

The permittee shall use the definition in Appendix C and the regulatory language in 18 AAC 70.020(20) to determine whether a discharge is a nuisance. 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 these comments.

#### 4.16 Comment Summary

Comment was received requesting that the term 'scupper' be removed from Part 2.1.6.1.4, as the term scupper is typically reserved for small drainage holes located on the deck of a vessel and not commonly used to refer to components of shorebased facilities. The commenter also suggested that DEC insert language that the vessel may utilize other BMPs to protect from incidental seafood processing solids going out scuppers, and that the permit should contain a clause that specifies that discharges of seafood processing wastewater out the scuppers are allowable if the safety of the vessel and its crew are in

jeopardy.

**Response:**

DEC made the following changes to the permit based on the comments (additions are underlined below).

**2.1.6.1.4.** Floor drain and scupper wastes. A permittee shall route all incidental seafood processing waste in floor drains and scuppers through a conveyance system to the seafood waste treatment system prior to discharge.

2.1.6.1.4.1. Permanently moored craft and barges and support vessels may utilize BMPs to prevent the discharge of incidental seafood processing solids from scuppers.

#### 4.17 Comment Summary

Comment was received stating that Part 2.1.6.1.5 requires the permittee to implement BMPs to eliminate sea surface residues violations that occur outside of the “standard 100-foot authorized mixing zone”. The commenter requested Part 2.1.6.1.5 be edited to reflect non-standard mixing zones that may be authorized by the permit.

**Response:**

Permit Part 2.1.6.1.5 currently states “If there are reoccurring (more than once) sea surface residues violations outside of the authorized mixing zone the permittee is required to develop and implement BMPs upon discovery to ensure that the violation is eliminated and will not be repeated in the future.” The phrase “outside of the authorized mixing zone” applies to both the standard 100-foot and non-standard authorized mixing zones.

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

#### 4.18 Comment Summary

Comment was received requesting clarification that Part 2.1.7.1 only requires outfall integrity inspections concurrently during an already occurring seafloor survey. The commenter also expressed concerns that the act of pressure testing on outfall lines could cause damage and requested that the outfall inspection only apply to the exposed portions of the outfall line.

**Response:**

The permit does not require pressure testing as the only method to determine the integrity of the outfall. Permit Part 2.1.7.1 requires the inspection methods to be listed in the Quality Assurance Project Plan (QAPP) and does not require the permittee to perform a specific method of inspection. With regard to the frequency of the integrity inspection, the Department made the following edits to Part 2.1.7.1 to clarify (additions are underlined below).

**2.1.7.1.** Outfall Inspection. The permittee shall perform an outfall condition inspection during ~~the~~ each seafloor survey as required under ~~found in~~ Part 2.3.5 as well as prior to resuming operations after a twelve-month or longer cessation of discharge. ~~Inspection techniques such as pressure testing, visual, Remotely Operated Vehicle (ROV), dye testing or diver inspection are allowed.~~ The permittee must include the inspection methods in the QAPP and ~~made~~ make them available

to DEC upon request.

#### 4.19 Comment Summary

Comment was received stating that the wording in Part 2.1.7.2 should be revised to remove the telephone and written reporting requirements if the failure of the discharge system is discovered and repaired at a time when no processing or discharges are occurring.

**Response:**

As noted in response to Comment 3.7 above, the Department has updated Part 1.10.3 to clarify that reporting in accordance with Appendix A is not required if the break is repaired before any unauthorized discharge occurs.

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

#### 4.20 Comment Summary

Comment was received stating that Part 2.1.7.5 and 2.3.6.7 should allow other methods to clearly document date and time of picture capture besides only digital date and time stamp visible on the image.

**Response:**

The Department made the following edits to the permit in response to the comment (additions are underlined below).

**2.1.7.5 Digital Photographs.** A permittee shall capture digital photographs of the grinder system or other method of treatment in operation while seafood processing waste discharge is occurring. At a minimum, photographs shall be captured at least once per month while seafood processing waste discharge is occurring. Photographs shall include the sampling port while taking a daily sample and a representative discharge sample from the treatment system showing seafood waste size. A measuring device, such as a ruler, will be included in the representative discharge sample ~~picture~~ photograph for scaling purposes. ~~Pictures~~ Photographs shall be of sufficient clarity and detail to support the observations and shall represent what was observed. Photographs shall include a digital date and time stamp or other information verifying that corresponds to when the photograph was taken. The permittee shall make a photograph log with the name of the person taking the photograph and the photograph description. The permittee shall submit ~~photographs and~~ the photograph log in electronic/digital format with the Annual Report (Part 2.6).

**2.3.6.7.** The permittee shall capture representative digital photographs of the sea surface at least once per month while seafood processing and discharge are occurring. Photographs shall be of sufficient clarity and detail to support the observations, shall represent what the permittee observed, and must document each event where the permittee observes positive sea surface or shoreline residues during that month. Photographs shall include a digital date and time stamp or other information verifying when the photograph was taken. The permittee shall make a photograph log with the name of the person taking the photograph and a photograph description. The permittee shall maintain the photographs and the photograph log for three years (see ~~Permit~~ Appendix A — ~~Standard Conditions~~, Part 1.11), and ~~made~~ make them available to DEC upon request.

#### 4.21 Comment Summary

Comment was received stating that Part 2.1.7.6 does not mention any requirement to capture photographs of noncompliance situations. The commenter requested this condition be amended to require that if photos are taken, such photos should be included in the Noncompliance Summary.

**Response:**

The Department made the following edits to the permit in response to the comment (additions are underlined below).

**2.1.7.6. Noncompliance Summary Inspection Report.** The permittee shall submit a summary report of noncompliance information gathered during outfall, grinder system and waste treatment inspections during the calendar year as part of the Annual Report (Part 2.6). The report shall include a table format documenting the duration of each noncompliance event, the corrective actions taken to resolve the noncompliance issue ~~found during the seafood processing waste-treatment system inspection, as well as~~ and any digital photographs of noncompliance taken under required in Part 2.1.7.5. to DEC as part of the Annual Report (Part 2.6). The report does not replace the need to submit a noncompliance notification under Appendix A, Part 3.5 for applicable violations under the permit.

#### **4.22 Comment Summary**

Comment was received stating that there is no apparent basis for prohibiting non-ballast Other Wastewaters discharges from support vessels when the exact same discharges may be authorized as point source discharges from the immediately adjacent shorebased facility or from the same seafood processing vessel acting in their own capacity offshore. The commenter requested the Department include Other Wastewaters discharges from support vessels when tied to the dock as an authorized discharge under the permit.

##### **Response:**

Part 2.1.9.1 currently allows non-commingled ballast water discharges for the normal operation of the vessel. The AKG523000 Offshore Seafood Processors General Permit covers discharges from processing vessels. It is not the Department's intent to cover discharges from processing vessels under the AKG521000 permit. The AKG521000 permit allows moored/docked support vessels and barges to discharge to the permitted onshore facility's wastewater treatment system, covered under the onshore facility's APDES authorization.

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

## 5 Effluent Monitoring, Part 2.2

### 5.1 Comment Summary

Comments were received stating that the requirement for permittees to monitor effluent is unnecessary, and is “monitoring for monitoring’s sake”. The added parameters do not have any nexus to the effluent limitation in the permit. The intent behind collecting additional effluent information for a “grind and discharge” Best Control Technology (BCT) permit should be to determine whether the discharge is a risk for violation of the Alaska WQS and this is assessed through receiving water quality monitoring.

#### **Response:**

As already noted in response to Comment 2.2, the Department has updated the AKG521000 permit with requirements that are consistent with other APDES permits, including the AKG528000 Seafood Processors Operating Onshore Facilities in Kodiak, AK General Permit and the AKG523000 Offshore Seafood Processors Wastewater Discharge General Permit. The AKG521000 permit is replacing the AKG520000 Seafood Processors in Alaska General Permit, which was last issued in 2001. The Department is required to include permit limitations and requirements that protect the existing uses of the receiving water and that do not degrade or further degrade the receiving water, except as allowed by regulation. Effluent monitoring is necessary to determine current pollutant concentrations in the permittee’s effluent, which in turn will be used to determine whether future discharge and authorization limits will need to be imposed under the permit. The Department may also use this effluent monitoring data to reassess the general permit defined mixing zone and evaluate the effluent’s pollutant loading effects on the receiving water.

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

### 5.2 Comment Summary

Comment was received requesting that DEC provide a reference to specific methods in the permit for any required analyses that do not appear in 40 CFR Part 136, specifically for density as found in permit Tables 3, 4, and 5. Comment was also received that footnote ‘b’ in Table 3 continues to note that “waste discharged = raw product – finished product”. This does not account for any spoiled or putrid waste that cannot be discharged per Part 1.4.1 and must be disposed via landfill or barge.

#### **Response:**

If a permittee cannot locate an approved method for an analysis listed in 40 CFR Part 136, the Department encourages the permittee to reference 18 AAC 70.020(c) for other regulatory methods. A permittee may also consult the Department for a specific method recommendation. In regards to the second comment, the Department would like to clarify that raw product is anything that is ground (or screened) and discharged under permit requirements and the permittee is responsible for accounting for all raw product, whether it is processed or not. Spoiled or putrid waste is prohibited from being discharged under the permit and inherently would not be included in the raw product accounting.

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

### 5.3 Comment Summary

Comment was received stating that it is not generally feasible to weigh the amount of seafood received

by the by-product recovery lines. The commenter requested this requirement be amended to allow calculated or estimated by-product raw material weights.

**Response:**

DEC made the following changes in Table 4 based on the comments (additions are underlined below).

Amount seafood received by the by-product recovery line	lbs	daily	report monthly total	measured (weighed) <u>or estimated</u>
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**5.4 Comment Summary**

Comment was received that Table 5 states that monitoring of transfer water discharges is only required during the 2<sup>nd</sup> and 4<sup>th</sup> years of the permit. This conflicts with the allowance in 2.2.6.3 to apply for reduced monitoring of Other Wastewaters if no water quality exceedances are detected after two years of monitoring.

**Response:**

The Department has determined that there is no conflict with the reporting requirement, as the current catch transfer water monitoring requirement is only required to occur twice during the permit cycle, therefore a reduction in monitoring frequency would not be applicable.

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

**5.5 Comment Summary**

Comment was received that monitoring reductions that may be approved by the Department in Part 2.2.6.3 may now be reduced after two years instead of one year. It remains unclear which parameters may be eligible for reduced monitoring frequencies. The commenter requests that parameters that are eligible for reduced monitoring be listed in the Permit or Fact Sheet, and that Part 2.2.6.3 be reverted to the previous one-year period for monitoring reduction eligibility.

**Response:**

Part 2.2.6.3 already specifies that the permittee may request in writing that parameter monitoring frequencies be reduced or eliminated for parameters without associated effluent limits. As noted by comments received by industry, many seafood processing facilities operate seasonally and will only collect a few samples per operating season. If a facility determines the need for a mixing zone during monitoring as required in Part 2.2.6, a minimum of ten samples are required to perform a reasonable potential analysis (RPA) and preferably 20 or more to attain a robust, statistical data set. Lastly, the two-year monitoring period is consistent with monitoring reduction frequencies in other WDAP general permits.

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

## 6 Receiving Water Quality Monitoring, Part 2.3

### 6.1 Comment Summary

Comment was received stating that it is unclear whether receiving water monitoring requirements apply to all processing facilities or just those with a site-specific mixing zone greater than 100 feet. The commenter was also unable to find the frequency at which the testing in 2.3.2.6.2 should be performed.

**Response:**

Part 2.3.2.1 states that all permittees that are issued mixing zone(s) shall conduct receiving water quality monitoring as found in Part 2.3.2 and Table 6, unless the permittee is participating in the Collective Receiving Water Quality Monitoring under Permit Part 2.3.3. Table 6 and Permit Part 2.3.2.2 specify when receiving water quality monitoring is required.

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

### 6.2 Comment Summary

Comment was received stating that receiving water monitoring requirements are expensive and will be difficult to comply with. The commenter noted that most facilities do not have personnel qualified to conduct this type of sampling and will likely have to contract out sample collection and development of a QAPP.

**Response:**

The data collected under Part 2.3.2 or Part 2.3.3 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. 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 4.3.4). The data collected under Part 2.3.2 and other permit-required monitoring may also eventually be used to calculate water-quality based effluent limitations (WQBELS) during the next permit cycle. 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 2.3.2 is only required on two days per year. It is not unreasonable to expect permittees to find two days during the year that are safe for conducting the monitoring required.

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

### 6.3 Comment Summary

Comment was received that the time restrictions in Part 2.3.2.2 and Part 2.3.2.3 are too restrictive for some processing facilities due to the short duration of the processing season. For facilities with short processing seasons, the requirement for samples to be taken at least four weeks apart is actually less representative of typical effluent conditions as these samples would need to be taken at the beginning and end of the processing season, which typically are periods of low production.

**Response:**

The Department made the following edits to Part 2.3.2.2 and Part 2.3.2.3 to account for facilities with short processing durations during the processing season (additions are underlined below).

~~2.3.2.2. The permittee shall conduct receiving water monitoring at a time that is within twelve hours of effluent monitoring performed for Permit Part 2.2. The permittee shall collect samples during times of comparative production rates and flow, and while seafood processing and discharge~~

~~is occurring.~~

~~2.3.2.3~~ **2.3.2.2** The permittee must collect sample sets a minimum of four weeks apart, unless processing and discharge occurs over less than six weeks in the year, twice per year, and shall continue until a minimum of ~~10~~ ten sample sets are collected over the ~~5~~ five year ~~term of the permit year term~~. The permittee may collect samples more often than as required in Table 6.

**2.3.2.3.** If processing and discharge occurs less than six weeks in the year, the permittee must collect sample sets a minimum of two weeks apart, twice per year, and shall continue until a minimum of ten sample sets are collected over the five year permit term. The permittee may collect samples more often than as required in Table 6.

## 6.4 Comment Summary

Comment was received that Part 2.3.2.9 states that sampling coordinates must be accurate to  $\pm 30$  feet. For consistency, we request that this be updated to  $\pm 50$  feet as stipulated for coordinates submitted as part of the NOI's Area Map (Part 1.7.1.1). Comment was also received that receiving water monitoring at these locations also poses a safety risk for the samplers due to heavy vessel traffic and for the sampling vessel to hold its position in varying currents at the 100-ft mixing zone boundary with any degree of accuracy.

### Response:

Part 2.3.2.9 was updated as requested to  $\pm 50$  feet. The Department also made the following edits to Part 2.3.2 to clarify the language and provide more flexibility for sampling due to safety concerns (additions are underlined below).

### 2.3.2. Receiving Water Quality Monitoring

**2.3.2.1.** Permittees that are issued mixing zone(s) shall conduct receiving water quality monitoring as found in Part 2.3.2 and Table 6, unless the permittee is participating in the ~~Joint Collective~~ Receiving Water Quality Monitoring under ~~Permit~~ Part 2.3.3.

~~2.3.2.2. The permittee shall conduct receiving water monitoring at a time that is within twelve hours of effluent monitoring performed for Permit Part 2.2. The permittee shall collect samples during times of comparative production rates and flow, and while seafood processing and discharge is occurring.~~

~~2.3.2.3.~~ **2.3.2.2.** The permittee must collect sample sets a minimum of four weeks apart (unless processing and discharge occurs over less than six weeks in the year), twice per year, and shall continue until a minimum of ~~10~~ ten sample sets are collected over the ~~5~~ five year ~~term of the permit year term~~. The permittee may collect samples more often than as required in Table 6.

~~2.3.2.4.~~ **2.3.2.3.** The permittee is required to perform the monitoring during the month(s) of highest average seasonal seafood waste discharge.

~~2.3.2.5.~~ **2.3.2.4.** The twice annual sampling events shall be representative of both peak salmon season and peak Pollock season, if the permittee processes during those seasons.  
~~production.~~

~~2.3.2.5.1. For facilities who primarily process salmon (typically May—September), monitoring shall be performed during the month(s) of highest average seasonal discharge.~~

~~2.3.2.5.2. For facilities who process Pollock monitoring shall be performed once during Season A (January—April) and once during Season B (May—December) during peak discharge.~~

~~2.3.2.6.~~ **2.3.2.5.** For Table 6, if the permittee has a standard ~~100-foot~~ mixing zone as defined in Part 2.3.1.3, the permittee shall collect ~~three sample sets on the same day, one at the surface, one at mid depth, and one within one meter of the bottom~~ at the following two monitoring locations:

~~2.3.2.6.1.~~ **2.3.2.5.1.** Boundary of the Mixing Zone Near Field Sample (NFS BMZ) –

The sample location shall be 100 feet downstream (in fresh water) or 100 feet seaward

(in marine or tidally influenced water) from each outfall terminus. The permittee shall label this sample “NFS” referencing the sample was taken in the outfall near field.

~~2.3.2.6.1.1. Freshwater discharges. The sample location shall be 100 feet downstream from the outfall terminus, at the outer boundary of each authorized mixing zone. The permittee shall label this sample “BMZ” referencing the sample was taken at the boundary of the mixing zone.~~

~~2.3.2.6.1.2. Marine or tidally influenced discharges. The sample location shall be 100 feet seaward of the outfall terminus, or at the mixing zone boundary. The permittee shall sample at the outer boundary of each authorized mixing zone. If a facility’s authorized mixing zones overlap, the permittee shall sample at the boundary of each mixing zone for the identified parameters.~~

~~2.3.2.6.2.2.3.2.5.2. Ambient Receiving Water Sample (ARW) – The permittee shall sample at a representative location in the receiving water not influenced by the effluent discharge (i.e., outside the influence of the effluent at a minimum 500 feet from the outfall terminus).~~

~~2.3.2.6.2.1.2.3.2.5.2.1. The permittee shall establish a monitoring station(s) in the receiving water at a background station at a point representative of the quality of the receiving water, not influenced by any facility’s discharge.~~

~~2.3.2.6.2.2.2.3.2.5.2.2. The permittee must seek written approval of the receiving water monitoring station from DEC at least 90 days prior to commencing receiving water monitoring.~~

~~2.3.2.7.2.3.2.6. For Table 6, if the permittee is issued a non-standard size mixing zone the permittee shall collect receiving water samples at the monitoring locations set out in the permittee’s written authorization.~~

~~2.3.2.8.2.3.2.7. Monitoring Depths – At each monitoring location, the permittee shall collect one sample at the surface, one sample at mid-depth, and one another sample within one meter of the bottom.~~

~~2.3.2.9.2.3.2.8. The permittee shall mark the sampling points on a map clearly identifying the BMZ-NFS and ARW monitoring site coordinates in decimal degrees (reported in NAD83). The coordinate accuracy shall be at least within ±530 feet. The permittee shall include the map in the QAPP (Part 2.4).~~

~~2.3.2.10.2.3.2.9. The permittee shall record monitoring results on Attachment E-2 and shall submit the results along with a summary report of pollutants monitored and monitoring data with the Annual Report (Part 2.6).~~

## 6.5 Comment Summary

Comment was received suggesting that the Department undertake a general study of outfall discharges in receiving water in lieu of requiring individual permittees to collect samples.

### Response:

Part 2.3.3 of the permit provides an option for a permittee to participate in collective receiving water quality monitoring in lieu of conducting the receiving water quality monitoring that would otherwise be required under Part 2.3.2.

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

## 6.6 Comment Summary

Comment was received stating that an exemption from the ZOD survey requirements should be included in this permit, including exemption criteria such as current, visibility, and seasonality of the discharge.

Photographs should provide a reasonable alternative to seafloor surveys. Comment was also received that the new seafloor survey requirements in the permit require services provided by dive companies that are extremely costly.

**Response:**

As noted in footnote 'a' of Table 7: Seafloor Monitoring Schedule, the seafloor surveys may be performed with other Department approved methodologies after receiving written approval of the modification request. The Department will not authorize exemptions from the seafloor monitoring requirements in Part 2.3.5.

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

**6.7 Comment Summary**

Comment was received stating it is unclear whether the "previously authorized discharge amount" in footnote 'e' of Table 7 means that new authorizations will be granted to a facility each year based on their four-year discharge average, and if so, whether a new NOI will be required each year based on updated four-year discharge averages. This footnote is unsupported by fact and prior survey history and should be removed. Comment was also received requesting that a condition be added to Table 7 to allow companies to postpone a seafloor survey if a facility does not operate for the calendar year that a survey is required per Table 7.

**Response:**

The Department agrees that the footnote needed clarification. After review, the current frequency of seafloor surveys should sufficiently cover the frequency of anticipated seafloor surveys and footnote 'e' has been removed from Table 7.

The Department also added the following language to footnote 'd' (additions are underlined below).

**Footnotes:**

d. Appendix E - Seafloor Survey Protocol is set up as a two-year evaluation, initially. The Part I survey shall be within one year of coverage. After the Part II ~~Seafloor~~ survey is completed (initially during the second year of coverage), the schedule of how often a Seafloor Survey shall be completed will be determined on the size of the seafloor deposits by the coverage area. If permittees do not discharge during a calendar year when a survey would otherwise be required, they may complete the required survey the next year during which discharge occurs.

e. ~~Survey is only required if the actual amount discharged is equal to or greater than 125% of the previously authorized discharge amount.~~

**6.8 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 2.3.6.6) 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.

**6.9 Comment Summary**

Several comments were received regarding the photograph log required in Part 2.1.7.5. Comments included that the photograph log is redundant to the already-required written daily notation (Part 2.1.7.3),

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 2.1.7.3 and Part 2.1.7.5 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.

## 6.10 Comment Summary

Comment was received that Part 2.3.1.3.2 provides the list of water quality criteria that may be exceeded within an authorized standard mixing zone. The commenter suggested that the word ‘standard’ be removed since other mixing zone sizes can be authorized by the permit. Additionally, the commenter requested that ammonia be added to the list of criteria for which DEC may authorize a mixing zone with modified effluent limits.

**Response:**

The Department made the following edits to Part 2.3.1 to clarify authorized mixing zones under the permit (additions are underlined below):

**2.3.1.3.** The permit authorizes a general permit defined standard mixing zone size ~~that will be authorized for each outfall~~ defined as a circular area with a 100-foot radius centered at the outfall pipe or discharge terminus extending from the seafloor up to the sea surface. A permittee may apply for an alternate mixing zone per Part 1.7.1.6. A larger or smaller mixing zone may be authorized in the written authorization.

~~2.3.1.3.1. A permittee shall meet all WQS, as applicable:~~

~~2.3.1.3.1.1. At the boundary of an authorized mixing zone,~~

~~2.3.1.3.1.2. In the receiving water at the point of discharge, if a mixing zone is not authorized.~~

~~2.3.1.3.2. Within an authorized standard mixing zone, the Department may authorize exceedances of the water quality criteria of 18 AAC 70.020(b) for dissolved oxygen, pH, residues, temperature, color, turbidity, and total residual chlorine.~~

**2.3.1.4** The Department may authorize exceedances of the 18 AAC 70.020(b) water quality criteria in the standard mixing zone for dissolved oxygen, pH, residues, temperature, color, turbidity, and total residual chlorine.

~~2.3.1.4.1~~ **2.3.1.5.** A permittee shall meet all applicable WQS, ~~as applicable:~~

~~2.3.1.4.1.1~~ **2.3.1.5.1.** At the boundary of an authorized mixing zone, or

~~2.3.1.4.1.2~~ **2.3.1.5.2.** In the receiving water at the point of discharge Prior to discharge into the receiving waterbody, if a for all parameters for which there is no authorized mixing zone is not authorized.

~~2.3.1.4~~ **2.3.1.6.** DEC will approve, or approve with conditions, modified effluent limits ~~(as found in Table 2)~~ and a mixing zone if the modified limits and resulting mixing zone are consistent with 18 AAC 70.

~~2.3.1.5~~ **2.3.1.7** The permittee shall identify in their NOI if the water from inside a proposed mixing zone is used, or intended to be used as a water supply for aquaculture, human consumption, seafood processing, industrial uses or contact recreation. These uses are defined in 18 AAC 70.

### 6.11 Comment Summary

Comment was received that Part 2.3.1.3.1.1 stipulates that a permittee shall meet all Alaska WQS at the boundary of an authorized mixing zone. Many facility outfalls are located beneath the path of vessels arriving and leaving facility docks. It is unclear whether a permittee is out of compliance if foam, sheen, or residues originating from the outfall have been transported out of the mixing zone from vessels moving through the area. The commenter requested clarification be added to the Permit or Fact Sheet and statements included in the Fact Sheet denoting enforcement discretion for these conditions.

#### Response:

As previously discussed in response to Comment 4.12, 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.

### 6.12 Comment Summary

Comment was received that the definition of the project area ZOD does not appear to take into account scenarios with adjacent facilities contributing seafloor seafood waste to a facility's project area ZOD. The commenter requested that the permit be modified to enable a permittee to deduct material contributed by neighboring discharges from deposition calculations within their project area ZODs.

#### Response:

Facilities with overlapping deposits are encouraged to work with the neighboring facility to perform a joint survey and collaborate on the delineation of the waste piles. The Department will evaluate the results of the seafloor survey(s) on a case-by-case and facility basis.

Based on the results of the surveys, the Department will determine the cumulative amount of seafood waste discharge to authorize. When appropriate, the Department will place limitations or prohibitions on the amount of waste each permittee is authorized to discharge and will place the approved amount in a written authorization for each permittee.

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

### 6.13 Comment Summary

Comment was received that using the term 'pollution elimination' in Part 2.3.5.6.1 sets an unreasonable standard for responding to a ZOD exceedance.

#### Response:

Part 2.3.5.6.1 requires the permittee to develop and implement BMPs, corrective actions, and a pollution elimination program to restrict additional seafood processing waste deposits and decrease the overall deposit size when a seafloor survey finds coverage greater than 1.0 acre. The term 'pollution elimination' is appropriate in this case, as the permittee is eliminating additional pollutants in order to reduce the size of the waste coverage.

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

### 6.14 Comment Summary

Comment was received expressing disagreement with the Department's comparison between wood waste and seafood waste in the Fact Sheet and the proposed requirements related to the concept of the project area ZOD. The commenter also disagrees with the concept of a ZOD forming at the dock due to fish transfer water discharges.

**Response:**

As noted in Part 4.4.3 of the Fact Sheet, in the evaluation of the compliance status of waste residues in the AKG521000 General Permit, coverage found outside a fixed 1.0 acre ZOD would have been a violation of the Alaska WQS and potentially subject to enforcement. By adopting a project area ZOD, DEC allows for the presence of discontinuous and trace coverage through the application of 18 AAC 70.210, which is consistent with the logic that the piles would disperse over time and water quality impacts would be mitigated by natural processes (e.g., current-induced dispersion).

The project area ZOD approach will require the permittee to survey a greater area of the seafloor to identify possible areas where deposits may have occurred as a result of the onshore facility's operations. Based on the results of the seafloor surveys, a revised size and location of the project area ZOD may occur. During this permit cycle seafloor survey results will be used to determine whether additional limits are required, to monitor potential effluent impacts on the receiving waterbody quality, and to inform future permit decisions.

The proposed seafloor survey approach is intended to gather additional information on discontinuous seafood waste coverage distribution within project area ZODs, given the lack of performance monitoring data and published studies on the effects of discontinuous seafood waste and percentages of coverage of discontinuous seafood waste deposits and their effects. The Department is seeking further information regarding the distribution of amounts and sizes (areal distribution) of seafood wastes and observations made of varying percent coverages (10-49% and 50-99%) of discontinuous waste and any observed short term or long term effects of permittees discharging in compliance with permit conditions.

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

**6.15 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 requested time frame. The Department acknowledges the dynamic nature of the fisheries. However, the required seafloor survey time frame remains stable each year based on the facility's planned operation for the season. 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 Quality Assurance Project Plan, Part 2.4

### 7.1 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 2.4 or multiple QAPP documents for different monitoring activities.

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

### 7.2 Comment Summary

Comment was received requesting that Part 2.4.10.3 (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.

## 8 Best Management Practices Plan, Part 2.5

### 8.1 Comment Summary

Comment was received addressing Part 2.5.6.7.17 BMP requirements for ammonia. The commenter states that this provision is too broad and should be redrafted to make clear that the BMPs only have to address “activities which may result in discharges to the waters of the United States.” Other releases are not within the purview of the Draft Permit and are duplicative of other requirements in State and Federal law. Comment was also received stating that Part 2.5.6.7.17 requires documents related to the proper operation and maintenance of refrigeration systems that are likely incorporated by reference into the BMP Plan to be kept, presumably as hard copies, with the BMP Plan. As these ammonia and Freon compliance plans are frequently updated and often run in the hundreds of pages long, the commenter requested rephrasing this to “proper procedures for operation and maintenance of refrigeration systems which may result in a discharge to the wastewater system.”

#### Response:

The Department edited Part 2.5.6.7.17 to clarify that this Part applies only where there is a discharge to waters of the U.S. (additions are underlined below).

~~2.5.6.7.17 Practices for the p~~Proper procedures for operation, maintenance and purging of ~~ammonia or other chemical based~~ refrigerant and freezer systems where there is a discharge or potential discharge to waters of the U.S. If the permittee references other documents to comply with this requirement, the permittee shall keep a copy of the document with this permit’s BMP Plan. The BMP Plan or other documents shall include and implement:

### 8.2 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.

### 8.3 Comment Summary

Comment was received stating that Part 2.5.6.7.7.1 directs the permittee to develop flow monitoring protocols for discharges from various refrigeration system-related Other Wastewaters to commingled outfalls; however, the Other Wastewaters monitoring and analysis sections do not require separate monitoring of internal outfalls. The commenter requested this section be removed or edited so that it is consistent with the Other Wastewaters requirements in Part 2.2.6.

#### Response:

The Department agreed with the comment and removed Part 2.5.6.7.7.1 from the permit. The Department also made the following edits to Part 2.5.6.7.7 (additions are underlined below).

~~2.5.6.7.7.~~ For the monitoring schedule established in Part 2.2.6, develop techniques to manage potential and planned “Other Wastewaters” discharges including ~~r~~Retort, ~~c~~Cooling / ~~h~~Heating system, ~~Air~~ air Scrubber scrubber and ~~Refrigeration-refrigeration~~ and ~~Freezer freezer~~ System system wastewaters. BMPs shall address times to monitor ammonia, ~~(if any) along with~~ pH, and temperature, during routine maintenance of the refrigeration and freezer systems (e.g. purging ~~systems freezer or refrigeration systems~~ of air and/or water, adding ammonia to inactive lines, repair, etc.) and ~~monitor ammonia~~ during routine cleaning of air scrubber/ammonia stripping systems if discharge from these activities occurs to waters of the U.S.

~~2.5.6.7.7.1. Develop methods for facility locations to monitor flow rates (mgd) for any Retort, Cooling / Heating system, Air Scrubber and Refrigeration and Freezer system's discharges to commingled outfalls.~~

## 8.4 Comment Summary

Comment was received that maintaining separate copies in multiple places makes it difficult to ensure that documents are updated in all places when annual review is conducted. The commenter suggested the Department add an allowance to Part 2.5.6.7.20 that a hyperlink in an electronic document to the current spill response procedures or Spill Prevention, Control, and Countermeasure (SPCC) Plan would be acceptable.

### Response:

The Department removed Part 2.5.6.7.20 from the permit and made the below edits to Part 2.5.6.7.23 to address the comments (additions are underlined below).

~~2.5.6.7.20 Procedures for spill response, storage of adequate oil and fuel clean-up equipment at the facility, on board and at fuel transfer locations.~~

~~2.5.6.7.24.~~**2.5.6.7.23.** Fuel Transfer ~~Procedures.~~ Provide a hyperlink to the facility's Spill Prevention, Control, and Countermeasure (SPCC) Plan or ~~d~~Describe vessel fuel-transfer activities. Ensure procedures protocols and ensure they comply with all federal and state regulations for the prevention of, preparedness for, and response to oil discharges, including:

## 9 Annual Report, Part 2.6

### 9.1 Comment Summary

Comment was received that Part 2.6.4 requires permittee to submit daily, monthly, and annual production and discharge information and imposes a significant paperwork burden on the permittee, particularly the daily requirement.

#### Response:

The Department reevaluated the daily information requirement and made the following edits to the Annual Reporting requirements (additions are underlined below).

#### ~~2.6.4.1. Daily production and discharge information including:~~

~~—2.6.4.1.1. The number of hours of seafood processing that occurred during the day.~~

~~—2.6.4.1.2. The type /species and total amount of discharged seafood waste.~~

~~2.6.4.1.2.1. If product is held for a number of hours prior to processing, include the methods used by the permittee to account for daily production and discharge amounts.~~

~~2.6.4.1.3. The estimated or measured daily volume of wastewater discharged (in million gallons per day) for each seafood waste, seafood by product, and “Other Wastewaters” outfall.~~

~~—2.6.4.1.4. The estimated or measured daily volume (mgd) of stickwater effluent discharged.~~

#### **2.6.4.1. Monthly production and discharge information, including:**

**2.6.4.1.1. The processing dates and total number of processing days per month.**

**2.6.4.1.2. Type and total amount of each raw products processed (in pounds) per month.**

~~2.6.4.2.2.1. Report the number of days of processing and the raw product (pounds) processed (for sampling days and total monthly) for each commodity line (e.g., crab meat, whole crab or crab sections, salmon by conventional/hand, salmon by mechanized processing, bottom fish, herring fillet processing, herring frozen whole, scallops).~~

**2.6.4.1.3. Type and total amount of each finished product produced (in pounds) per month.**

**2.6.4.1.4. Type and Total amount of discharged seafood waste (raw products minus finished products) (in pounds) per month.**

**2.6.4.1.4.1. If waste is shipped to a by-product facility or line and waste/effluent is routed back to the facility for discharge through the facility’s seafood waste stream this poundage or volume shall be listed separately.**

~~—2.6.4.2.5. Type and total amount of seafood solids received (in pounds) at the by product facility/commodity line(s).~~

**2.6.4.1.5. The estimated or measured daily maximum and monthly average volume of wastewater discharged (in million gallons per day) for each seafood waste processing, seafood processing by-product, and “Other Wastewaters” outfall.**

### 9.2 Comment Summary

Comment was received that Part 2.6.4.4 requires permittees to submit water usage information which is not mentioned elsewhere in the permit and appears to be somewhat randomly included without mention of other water usage types.

#### Response:

The Department reevaluated this reporting requirement and removed the following requirements from the permit.

#### ~~2.6.4.4. Water Usage Information correlated to an updated NOI Line Drawing:~~

~~2.6.4.4.1. The estimated or metered volume(s) of incoming seawater and/or freshwater used for cooling water.~~

## 10 Attachments and Appendices

### 10.1 Comment Summary

Comment was received stating that multiple persons perform seafloor surveys and QA/QC is the responsibility of the project manager, not the surveyor, as noted in Appendix E, Part I - (2) (a).

**Response:**

The Department incorporated the suggested edits to Appendix E as follows (additions are underlined below):

- a) ~~Surveyor's~~ Company name, project manager signature, and contact information.

### 10.2 Comment Summary

Comment was received suggesting that a master data spreadsheet with point #, time, GPS location, depth, waste thickness and descriptors along with high-definition video can be used in place of the photo log required in the Appendix E, Part I Seafloor Survey – (4) (a). A separate photo log will greatly increase cost due to time it will take and volume of photographs required to provide a photograph at each sample plot.

**Response:**

The Department reviewed the suggested edits to the Part above and has added the following clarification language to reduce the amount of photographs necessary to characterize sample plots (additions are underlined below):

- a) Digital photographs. Digital photographs representative of the sample plots must depict the nature and coverage of seafood processing waste deposit(s), if any, on the seafloor along parallel transects. Digital photographs or video shall capture images of natural sediment, natural sediment covering seafood processing waste, if observable, continuous and percentages of discontinuous seafood waste, and/or bacterial mats covering sediment. The surveyor must document whether they are able to differentiate between natural sediments or evidence of seafood waste residues based on observations and photographs. Photographs shall be of sufficient definition, clarity, and detail to clearly document the seafloor conditions and observations. Photographs shall include a digital date and time stamp or other verification of when the photograph was taken. The photograph log shall include the name of the seafood processor, survey date, and photographic sample plot location identifier. Photographs are not required for every sample plot; the surveyor may provide the amount of representative photographs to characterize distinctly different areas and seafood waste types, as described above.

### 10.3 Comment Summary

Several comments were received concerning the inclusion of Beggiatoa or other bacterial mats as continuous coverage during the seafloor survey and the identification of Beggiatoa associated with seafood waste deposition. Comments included statements that Beggiatoa are naturally occurring in sediments and are found in areas where no seafood deposits are found due to other sources of organic enrichment. One comment suggested that monitoring protocols should specify what amount of coverage and thickness would trigger the need to count Beggiatoa as continuous coverage.

**Response:**

The presence of Beggiatoa signifies impacted seafloor conditions and potentially due to organic nutrient enrichment from underlying seafood waste. The Appendix E- Seafloor Survey Protocol requires the surveyor to document the presence of all Beggiatoa, regardless of thickness, and count the presence as continuous coverage. The Department understands that Beggiatoa may naturally occur in areas where no seafood deposits are found, and included language in Appendix E, Part I Seafloor Survey – (4) (c) (additions are underlined below) to account for Beggiatoa caused by

something other than seafood processing discharges.

- b) **c) Beggiatoa or other types of Bacterial Mats.** Document the absence or presence, as well as size and location, of Beggiatoa or other microbial mats observed on or near any seafood waste deposits or on the seafloor (if waste deposits are not evident). All Beggiatoa or other bacterial mat areas shall be counted as continuous coverage, as they represent seafloor impairment, unless the permittee provides the Department sufficient documentation and the Department agrees that the bacterial mats were not the result of seafood processing discharges and/or the subsequent nutrient enhancement as a result of the waste coverage.

#### 10.4 Comment Summary

Several comments were received suggesting that surveyors estimate sea life observed during the Part I Seafloor Survey, as divers or operators cannot identify individual fish and count them during the survey.

##### Response:

The Department agreed with the comment and made the following changes to the Appendix E, Part I Seafloor Survey – (4) (d) (additions are underlined below) to clarify that the surveyor may record general observations of quantity and types of sea life and aquatic vegetation observed.

d) **Sea Flora and Fauna.** General observations of quantity and types ~~Type and number~~ of macro sea fauna (sea life) and ~~type of~~ aquatic vegetation observed on the seafloor during the photographic survey. ~~Types and quantities of~~ Include sea life observed adjacent to, on, or feeding on any seafood processing waste deposits during the survey. ~~videotaping, along with representative photos with time and date stamp.~~ The surveyor shall mention any indication of change in sea life behavior from any previous observation or seafloor survey reports, and any other observations relevant to the condition of the benthic community or seafloor.

#### 10.5 Comment Summary

Comments were received requesting that seasonal ambient tidal current velocity and water chemistry data be removed from the Seafloor Survey Protocol in Appendix E, as this data collection requirement is duplicative of receiving water monitoring already required under the permit.

##### Response:

The Department agreed with the comment and made the following changes to the Appendix E, Part I Seafloor Survey– (4) (e) (additions are underlined below) to remove the seasonal hydrology reporting requirements and water chemistry data .

e) **Hydrology.** Report ambient tidal current velocity and direction at the time of the survey and ~~water chemistry (both seasonal and in situ on the day of the survey, including salinity, water temperature, density, turbidity, DO, and pH).~~ These parameters should be taken as a grab sample or using a probe.

#### 10.6 Comment Summary

Comment was received that the presence of buried waste should be based on the most recent seafloor survey and that the Department should clarify the definition of buried seafood waste. Comment was also received that buried aged seafood waste no longer contains significant organic nutrients and has no more influence on the environment than naturally occurring shell hash. Surveys provide evidence that the buried seafood waste material does not adversely impact the benthic community or ecological function, and the inclusion of buried seafood waste in ZOD areas should be removed.

##### Response:

The AKG521000 permit currently authorizes a 1.0 acre ZOD, which is the maximum area on the

seafloor where a permittee is authorized to exceed WQS with deposition on the seafloor. Regardless of when the deposit occurred, the permittee is authorized for a 1.0 acre exceedance of the WQS for residue deposition. The presence of buried seafood waste adjacent to an active outfall or continuous coverage areas indicates a previously authorized excursion of the residue standard and shall be counted towards the permittee's authorized 1.0 acre zone of deposit as listed in the AKG521000 permit and the Appendix E Seafloor Survey Protocol.

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

## 10.7 Comment Summary

Comments were received that divers cannot determine the plume size during a seafloor survey since it changes rapidly as it travels with the tide and toward the surface, and it is not feasible for the diver to photograph floating particles in the water column. One comment also noted that plume size reporting does not make sense since surveys will occur following the end of processing and there will be no plume.

### Response:

The Department reviewed the comments and revised the Appendix E, Part I Seafloor Survey – (4) (h) to simplify the plume size reporting requirement. The additions are underlined below. To address the last comment, the Department would like to note that some facilities under the permit may operate year-round, and reporting plume size is an indication of an active or inactive discharges during the time(s) of the survey.

h) **Plume Size.** An indication of an active or inactive discharge occurring during the time(s) of the survey. Include the approximate width and length of each outfall's effluent plume when discharge is occurring.

- ~~i. Approximate width and length of each outfall's effluent plume when discharge is occurring.~~
- ~~ii. Evidence and photographs documenting floating residues surrounding or extending outside the visible plume.~~
- ~~iii. Observations and photographs of waste residue particle size in any deposit within 30 ft of the outfall, and a minimum observation and one photograph of the particle size (if any) with an accompanying measuring device.~~

## 10.8 Comment Summary

Comments were received that collecting water samples for methane and hydrogen sulfide from the seafloor is an indirect indicator of anoxic conditions, whereas dissolved oxygen is a direct indicator and is sufficient.

### Response:

The Department agrees with the rationale behind removing the methane and hydrogen sulfide sampling, and removed that sampling from the Part II Seafloor Survey requirements in (4) (l).

l) **Dissolved Oxygen and Other Gases.** When gas is observed escaping from the seafloor in the vicinity of the outfall or from the seafood waste pile, the surveyor is required to collect water samples or measure directly for dissolved oxygen, ~~methane, and hydrogen sulfide~~. Samples shall be collected at six inches or less above the seafloor/seafood waste deposit where the greatest amounts of gas release are observed.

## 10.9 Comment Summary

Comment was received that measuring waste deposits using a "marked stick" (Part II Seafloor Survey - Section (4) (j)) is not an accurate method for measuring thickness of a deposit, nor is coring. It is unclear why the thickness of the waste pile (other than to determine whether the deposit is continuous or discontinuous) is required since the ZOD is related to areal coverage, not volume. Comment was also received requesting the Department include a threshold of apparent depth of thickness of seafood waste at

which coring would be expected, if coring remains a requirement in the permit.

**Response:**

The Department has made the following edits to the Part II – Seafloor Survey (4) (j) (additions are underlined below).

j) **Seafood Waste Deposit Thickness.** Determine and record whether the estimated seafood processing waste deposit thickness (~~from the seafloor to the highest point of the pile~~) using a ~~marked stick or pipe to the nearest~~ is greater than or less than 0.5-inch (1/2") thick at each sample plot. If seafood waste is visible, but less than 1/2" thick, record as "Trace." ~~Coring may be required to determine the actual thickness of seafood processing waste deposits measured greater than three feet deep or if deposits are of such a fine particle size that the surveyor is unsure whether the seafloor substance is seafood waste or natural sediment.~~

### 10.10 Comment Summary

Comment was received that there is no clear determination or supported basis for differentiation between having a minimum thickness detection limit for waste deposits inside the project area ZOD and no minimum thickness detection limit for areas outside the project area ZOD.

**Response:**

The varying thickness detection levels were established to differentiate seafood waste deposits that are approved, within a project area ZOD, and waste that is noted outside of the authorized project area ZOD. The permittee may exceed the water quality criteria of 18 AAC 70.020(b) for residues, but in no case may they violate the WQS outside of the project area ZOD. If the permittee discovers seafood deposits outside of their authorized project area ZOD, the permittee can apply to extend the boundaries of their project area ZOD.

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

### 10.11 Comment Summary

Comments were received requesting the Department to provide the Geographic Information System (GIS) files and specific rationale for all project area ZODs.

**Response:**

It is the Department's intent to provide specific project area ZOD location information in each permittee's final authorization package.

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

### 10.12 Comment Summary

Comments were received suggesting the Department change the re-start of production timeline for the Pre-Discharge Biological Survey from 12 months to 5-10 years.

**Response:**

The Department agrees with the rationale provided by the commenters and has removed the re-start production timeline from the permit and protocol. The Department has made the following edits to reflect the intent and timeline of the Pre-Discharge Biological Survey.

Changes made to Appendix H Pre-Discharge Biological Survey (additions are underlined):

The results of the pre-discharge survey shall be submitted with the submittal of a new NOI, ~~with an updated NOI at an existing facility's re-startup (after 12 consecutive months of no discharge)~~, or with a modified NOI when moving or the location of a broken outfall line in installation of a new outfall line installing a new outfall line. The survey shall have been performed within the last six ~~six~~

~~months. but prior to new outfall placement, or prior to re-startup of a facility which has not discharged for a period of greater than 12 consecutive months.~~

Changes made to the General Permit:

### 2.1.3. Pre-Installation / Pre-Discharge Survey Requirements

**2.1.3.1.** The permittee shall not anchor any outfall in or discharge waste and/or wastewater into or onto “living substrates” such as submerged aquatic vegetation, kelp, or eelgrass. A pre-biological survey is required in compliance with Appendix H where:

**2.1.3.1.1.** A new onshore facility with new outfall(s) is proposed,

**2.1.3.1.2.** An existing facility is proposing a new outfall location. ~~or~~

~~2.1.3.1.3. A permittee is restarting a seafood processing facility in a location where seafood discharges have not occurred for the past consecutive 12 months.~~

## 10.13 Comment Summary

Comment was received that the requirement provided in footnote “1” at the bottom of Page E-5 does not appear to be linked to the protocol. Was this footnote intended to specify an additional seafloor survey requirement or was it an unintended draft document artifact?

### Response:

Footnote “1” is located on page E-5 of the Seafloor Survey Protocol, in Part I (4) (a) Digital Photographs.

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

## 10.14 Comment Summary

Comment was received requesting clarification about various seafloor survey requirements in Appendix E, Part I and Part II. The commenter interprets the survey requirements that sampling every portion of the project area ZOD would not be required unless seafood waste was observed. Additionally, the seafloor survey is required to continue until seafood waste material is no longer observed. The commenter requests that DEC provide reasonable boundaries limiting the spatial extent of seafloor surveys at Cordova and other congested areas.

### Response:

Part I of the Seafloor Survey Protocol requires the permittee to survey the entire project area ZOD and to extend the survey if more waste is observed. Part II requires the permittee to survey based on the Part I results, with at least a 200-foot wide area surveyed around the outfall. When seafood waste material is observed merging with a neighboring facility, these situations will be handled on a case-by-case basis. The permittee is encouraged to work with the neighboring facility and contact the Department if merging waste deposits are identified.

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

## 10.15 Comment Summary

Comment was received requesting that DEC provide a process whereby permittees may request an alternative sampling design as part of the seafloor survey work plan review process.

### Response:

As noted in response to Comment 6.6 above, footnote ‘a’ of Table 7: Seafloor Monitoring Schedule provides that the seafloor surveys may be performed with other Department approved methodologies after receiving written approval of the modification request.

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

## 10.16 Comment Summary

Comment was received that not every seafloor survey report is authored by the seafloor surveyor and that requiring a surveyor to certify a report they did not write is not acceptable. The commenter requested that the Part I Survey Protocol change sheet provision on Page E-9 be updated to require a responsible individual to certify that the survey data is true and accurate.

### Response:

The following edits were made to Part I (6) Change Sheet in the Appendix E Seafloor Survey Protocol (additions are underlined below).

6) **Change Sheet.** A change sheet at the end of the seafloor survey report attached by the permittee, documenting any changes to the seafloor survey report as required by the permittee. Or, the two documents may be submitted in red-line track changes. Seafloor Survey Reports shall be certified by the ~~surveyor~~ survey project manager and signed by a principal officer or duly authorized representative of the permittee. The ~~surveyor~~ project manager ~~or~~ shall certify that the survey data is true and accurate, and document review of any changes to the ~~surveyor's~~ original seafloor survey report.

## 11 Additional Comments Received During the Eleven-Day Applicant Review

During the applicant review for the proposed final permit documents, the Department received additional comments from four commenters: Perkins Coie LLP; Trident Seafoods Corporation; OBI Seafoods, LLC; and Silver Bay Seafoods. Several comments received during the eleven-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 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.

### 11.1 Comment Summary

Comments were 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, including changing their operations, completing construction projects, and submitting complete NOIs (including modeling). Comments requested that DEC provide a timeline for the permit issuance and implementation that takes all of these factors into consideration. Additionally, comments were received requesting that DEC include provisions in the permit to provide a process for a permittee to seek a compliance schedule for completion of specific requirements beyond the permit effective date (also see Response to Comments 2.1).

### Response:

The Department understands that some applicants may not be able to complete facility modifications to meet new permit requirements by the effective date of the permit. The Department added Part 2.7 Compliance Schedules to the AKG521000 permit to allow the Department to issue an authorization to a permittee who may need additional time to come into compliance with new permit conditions (additions are underlined below).

### 2.7 Compliance Schedules

Per 18 AAC 70.910, the Department has the authority to issue schedules in permits, certifications, or approvals.

2.7.1. In order to issue a compliance schedule, the Department will make a reasonable

finding supported by demonstrated need from the permittee. The permittee shall demonstrate that they cannot immediately comply with the new limits and permit conditions upon the effective date of the permit.

2.7.2. Factors relevant to determining whether a compliance schedule shall be issued in a permit authorization include, but are not limited to:

2.7.2.1. How much time the permittee has already had to comply with permit requirements;

2.7.2.2. The extent to which the permittee has made good faith efforts to comply with the limits and requirements in prior permit(s);

2.7.2.3. Whether there is any need for modification to treatment facilities, operations, or measures to meet the permit requirements and, if so, the amount of time and the steps it would take to implement the modifications to treatment, operations, or other measures; and

2.7.2.4. Whether the permittee would be expected to use the same treatment facilities, operations, or other measures to meet conditions under this permit as they would have used to meet the conditions of their prior permit.

2.7.3. Compliance schedules that are longer than one year in duration will set forth interim requirements and dates for their achievement.

2.7.4. Compliance schedules issued in accordance with Part 2.7 shall not exceed 18 months from the time of issuance and shall not extend past the expiration date of this permit.

## 11.2 Comment Summary

Comments were received requesting the addition of a waiver option to the 10 million pound discharge limit and requesting the Department provide reasoning for why these facilities should fall under an Individual Permit instead of being given a mechanism for a waiver as previously allowed, and provide reasoning for why modeling is favored over a robust data set (also see Response to Comment 4.10)

### Response:

The AKG521000 is a General Permit with a 10 million pound permit limit. Per 18 AAC 83.205(b)(2)(E), the Department may use a general permit to regulate discharges when the discharge sources are, in the opinion of the Department, more appropriately controlled under a general permit than under individual permits. It is the Department's opinion that onshore seafood processing facilities discharging over 10 million pounds of seafood processing waste per year are more appropriately controlled under individual permits than under a general permit. If a permittee desires to seek authorization to discharge outside the limitations of general permit coverage, the permittee may apply for an Individual Permit.

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

## 11.3 Comment Summary

Comments were received that Part 2.1.8.7 expresses the effluent limit as "discharges shall be smaller than 1.27 cm (0.5")" and this is not consistent with the EPA-promulgated effluent guideline limit of "1.27 cm (0.5") or smaller." The commenters requested that Part 2.1.8.7 be changed to be consistent with the effluent guideline limit.

### Response:

The following edits were made to Part 2.1.8.7 to be consistent with the effluent guideline (additions are underlined below).

**2.1.8.7** For a facility's "Other Wastewaters" that come into contact with seafood waste not sent through the seafood processing waste treatment system, the permittee shall remove seafood processing waste solids prior to discharge to waters of the U.S. Seafood waste solids discharges shall be reduced to smaller than 1.27 cm (0.5 inch) or smaller in any dimension prior to discharge. This includes catch transfer water discharges.

#### 11.4 Comment Summary

Comments were received that Part 2.3.6.5 and Part 2.3.6.8 reference discharges from fishing boats tied up to a permittee's docks and that DEC should make clear in the permit and/or Fact Sheet that the processors are not responsible for discharges (other than catch transfer water returned to the vessel) from vessels at their docks (see Response to Comments 4.12). Specifically, the commenter requested that DEC delete the sentence "Permittees are also responsible for any other discharges that are made from vessels at the facility's dock(s) (whether transfer water or not)."

##### Response:

Discharges other than seafood processing waste are not covered under the AKG521000 permit and discharges unrelated to seafood processing waste would be outside the scope of the permit and may be unrelated to the permittee (this statement was added to original Response to Comments 4.12). 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.

#### 11.5 Comment Summary

Comments were received that Beggiatoa is not a "seafood waste deposit" and should not be included in the calculation of "continuous coverage" in Appendix E. Continuous, thick Beggiatoa mats are indicative of organic over-enrichment, but they are not the same as seafood waste deposits. The commenter suggested revising the permit language to allow for continuous, thick Beggiatoa mat areas to be added to ZOD areas without incorrectly labeling them as seafood waste deposits (also see Response to Comments 10.3). Comment was also received requesting confirmation of the interpretation that Appendix E Part I (4)(c) applies the same areal coverage percentage thresholds (Trace, Discontinuous, and Continuous) to observations of Beggiatoa as are applied to seafood waste deposits in order to determine inclusion in a ZOD.

##### Response:

As already discussed in the Response to Comment 10.3, unless the permittee can provide documentation that the Beggiatoa or other mats were not the result of seafood processing discharges and/or the subsequent nutrient enhancement as a result of waste coverage, Beggiatoa shall be counted as areas of seafloor impairment and included in the zone of deposit calculation.

The Department made edits to Appendix E, Part 4 (c) (additions are underlined below) to clarify the areal coverage percentage thresholds that apply to Beggiatoa or other types of bacterial mats:

c) **Beggiatoa or other types of Bacterial Mats.** Document the absence or presence, as well as size and location, of Beggiatoa or other microbial mats observed on or near any seafood waste deposits or on the seafloor (if waste deposits are not evident). All Beggiatoa or other bacterial mat areas shall be counted as continuous coverage according to the areal coverage percentage thresholds established in Part (4)(b), as they represent seafloor impairment, unless the permittee provides the Department sufficient documentation and the Department agrees that the bacterial

mats were not the result of seafood processing discharges and/or the subsequent nutrient enhancement as a result of the waste coverage.

### 11.6 Comment Summary

Comment was received stating that there is a difference between active deposits of seafood waste on the bottom (for which a ZOD is required) and historic buried seafood waste. Buried waste is not a “deposit on the bottom,” and therefore does not violate State water quality standards. Multiple commenters attested that buried waste should not be included in the calculation of “continuous coverage” because it is, in fact, not covering the bottom and healthy benthic habitat conditions have been observed in seafood processing outfall areas where 3 to 6 inches (or more) of native material was overlying buried seafood waste (also see Response to Comment 10.6).

#### Response:

As previously noted in Response to Comment 10.6, regardless of when the deposit occurred the permittee is authorized for a 1.0 acre exceedance of the WQS for residues deposition. The presence of buried seafood waste adjacent to an active outfall or continuous coverage areas indicates a previously authorized excursion of the residue standard and shall be counted towards the permittee’s authorized 1.0 acre zone of deposit as listed in the AKG521000 permit and the Appendix E Seafloor Survey Protocol. Buried seafood waste is indeed a deposit on the bottom that continues to persist. There were no revisions to the permit documents based on this comment.

### 11.7 Comment Summary

Comment was again received requesting a DMR due date of the 20<sup>th</sup> of the month, or later, when all results are more likely to be received. A due date of the 15<sup>th</sup> of the month is likely to result in routine NetDMR resubmittals for additional laboratory data, which are an unnecessary administrative burden on both industry and DEC for no environmental benefit (also see Response to Comment 4.4).

#### Response:

As already noted in Response to Comment 4.4, the APDES Appendix A, Part 3.2.1 (Standard Conditions, Reporting of Monitoring Results) requires DMR submittal by the 15<sup>th</sup> day of the month following when the samples were taken. This is standard Department policy and in order to maintain consistency with other General Permits, the Department maintains a due date of the 15<sup>th</sup> of the following month. The permit’s monitoring is only required monthly, so permittees can plan accordingly and sample early in the month in order to submit the samples to a laboratory and receive results to enter into NetDMR before the 15<sup>th</sup> of the following month.

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

### 11.8 Comment Summary

Comment was received requesting confirmation that this Response to Comments document (Comment 4.3 and Comment 4.22) directs permittees towards the 0 – 0.25 nautical mile conditions of AKG523000 (Part 2.1.3.3.1.1) in order to authorize Other Wastewaters discharges from Moored Support Vessels tied to permanently installed infrastructure. The commenter maintained that it is not practical to route all other discharges (non-seafood processing and non-domestic) from a fully operational vessel used for transportation to a shorebased treatment system.

#### Response:

The Department does not intend to authorize Other Wastewaters discharges from Moored Support Vessels tied to permanently installed infrastructure under AKG523000 Part 2.1.3.3.1.1. The AKG523000 General Permit provides Other Wastewaters discharge coverage for vessels that discharge seafood processing waste and other wastewater pollutants to waters of the U.S. The Moored Support Vessels are not discharging seafood processing waste to waters of the U.S. and are

therefore not eligible for discharge coverage under the AKG523000 permit.  
There were no revisions to the permit documents based on this comment.

### 11.9 Comment Summary

Comment was received stating that there is no authorization for exceedances of the ammonia water quality criteria within a standard mixing zone. The commenter requested that DEC add ammonia to the list of criteria for which DEC may authorize a standard mixing zone with modified effluent limits since according to the Fact Sheet ammonia is likely present in the wastewater discharge.

#### Response:

Ammonia was not previously authorized in the 100-foot standard mixing zone in the AKG520000 General Permit, and 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 this comment.

### 11.10 Comment Summary

Comment was received that the definition of the Project Area ZOD does not appear to take into account scenarios with nearby facilities contributing seafloor seafood waste to an adjacent facility's Project Area ZOD. The commenter requested that the permit be modified to enable permittees to deduct material contributed from neighboring dischargers from ZOD calculations within their Project Area ZODs if evidence can be presented to differentiate between the deposits (also see Response to Comment 6.12). Comment was also received requesting clarification of how compliance with permit conditions in Part 2.3.5.8 (waste observed outside of the Project Area ZOD requires noncompliance reporting as Other Noncompliance) will be determined if there are multiple processors with Project Area ZODs that are adjacent or in close proximity to each other.

#### Response:

As already noted in Response to Comment 6.12, the Department will evaluate the results of the seafloor survey(s) on a case-by-case and facility basis. The Department cannot pre-determine the analysis of that data in the permit. The Department will review the results of the survey(s) and then determine which material contributions, if any, may be deducted from a Project Area ZOD if evidence can be presented to differentiate between the deposits. The Department does not comment on, nor predetermine compliance and enforcement mechanisms through the Permitting process.

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

### 11.11 Comment Summary

Comment was again received that there is no discernible basis for creating two different detection standards for deposits and impact based on the location of the waste observed (within a Project Area ZOD or not). The commenter requested that the same minimum detection level be used for seafood waste observed outside of a Project Area ZOD as within a Project Area ZOD (also see Response to Comment 10.10).

#### Response:

As already noted in Response to Comment 10.10, the varying thickness detection levels were established to differentiate seafood waste deposits that are approved, within a project area ZOD, and waste that is noted outside of the authorized project area ZOD.

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

### 11.12 Comment Summary

Comment was received that the footnote in Appendix E containing a requirement to conduct seafood waste

confirmation soil sediment sampling is confusing and should be clearly identified in the permit, not hidden in footnotes. The commenter requested clarification of this confusing and potentially onerous footnote.

**Response:**

The Department moved the footnote language to the body of the paragraph under Part I (4)(a) Digital Photographs (additions are underlined below) and modified the language to clarify the intent. The addition of the footnote language does not require the permittee to perform laboratory analysis each time a seafloor surveyor is uncertain what he or she is seeing on the seafloor. The intent of this part is for the surveyor to conduct additional investigation, which may require grab samples.

- a) **Digital photographs.** Digital photographs representative of the sample plots must depict the nature and coverage of seafood processing waste deposit(s), if any, on the seafloor along parallel transects. Digital photographs or video shall capture images of natural sediment, natural sediment covering seafood processing waste, if observable, continuous and percentages of discontinuous seafood waste, and/or bacterial mats covering sediment. The surveyor must document whether they are able to differentiate between natural sediments or evidence of seafood waste residues based on observations and photographs. If the surveyor is unable to differentiate between natural sediments and fine particle size seafood processing waste, the surveyor shall conduct additional investigation, which may require grab samples. Photographs shall be of sufficient definition, clarity, and detail to clearly document the seafloor conditions and observations. Photographs shall include a digital date and time stamp or other verification of when the photograph was taken. The photograph log shall include the name of the seafood processor, survey date, and photographic sample plot location identifier. Photographs are not required for every sample plot; the surveyor may provide the amount of representative photographs to characterize distinctly different areas and seafood waste types, as described above.

### 11.13 Comment Summary

Comment was again received that the seafloor monitoring frequency described in Part 2.3.5 and Table 7 remains excessive and financially burdensome, especially for facilities that have significant data showing minimal seafloor deposition. The commenter proposed adding a mechanism to the permit to allow reduced seafloor survey occurrences for facilities that can provide evidence of minimal deposition.

**Response:**

The Department made the following edits to Part 2.3.5 to allow facilities to apply for a waiver from the seafloor monitoring requirement after demonstrating they meet certain thresholds after two seafloor surveys (additions are underlined below):

#### 2.3.5.6. Modification of Seafloor Survey Monitoring Requirement

2.3.5.6.1. A permittee may submit a written request to DEC to reduce the seafloor survey monitoring requirement if the following conditions are satisfied:

2.3.5.6.1.1. The request includes the results of at least two seafloor surveys conducted at the same actual single discharge location from different operating years, and each survey demonstrates deposits less than 0.25 acres of coverage;

2.3.5.6.1.2. Each survey complies with the requirements in Part 2.3.5.1;

2.3.5.6.1.3. The request includes the amount (by weight) of seafood processing waste discharged at the single discharge location for each year of operation at the discharge location and the production lines in use each year of operation; and

2.3.5.6.1.4. The permittee's discharges to the single discharge location have been in compliance with the discharge waste weight limitations specified in the DEC written authorization and in this permit.

2.3.5.6.2. A permittee shall continue performing seafloor surveys at each single discharge

location as required by Part 2.3.5.5 until DEC provides written approval of reduced seafloor survey monitoring for the discharge location.

2.3.5.6.3. An approved modification of the seafloor survey monitoring requirement is no longer valid and seafloor surveys shall be conducted as required by Part 2.3.5.5 if:

2.3.5.6.3.1. The permittee's annual total amount (by weight) of seafood processing waste discharged at the single discharge location increases by more than 25% over the largest annual discharge amount associated with the surveys performed in support of a permittee's modification request; or

2.3.5.6.3.2. A new production line is added.

### 11.14 Comment Summary

Comment was again received requesting a revision to Part 1.3.7 to match wording used in Part 1.1.2 and clarify that “permanent vs. non-permanent” is the differentiating factor instead of “moored craft and barges versus vessel.” (also see Response to Comment 3.1)

#### Response:

As noted in Response to Comment 3.1, the Part 1.3.8 (incorrectly noted as Part 1.3.7 in the comment received) vessel discharge prohibition applies to discharges associated with disposal by vessel in inland waters of the U.S. behind the baseline. This is further explained in Part 1.7.7 of the Fact Sheet. Permanent vs. non-permanent is not an accurate differentiating factor that applies to Part 1.3.8

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

### 11.15 Comment Summary

Comment was received that Part 2.5.6.7.23 inaccurately notes that the facility should include a hyperlink to the facility's SPCC Plan in the BMP to fulfill requirements, whereas the document that provides detailed information for fuel transfers to vessels would be the Facility Response Plan (FRP).

#### Response:

The Department made the following changes to Part 2.5.6.7.23 as requested (additions are underlined below):

**2.5.6.7.23 Fuel Transfer.** Provide a hyperlink to the facility's ~~Spill Prevention, Control, and Countermeasure (SPCC)~~ Facility Response Plan (FRP) or describe vessel fuel transfer protocols and ensure that they comply with all federal and state regulations for the prevention of, preparedness for, and response to oil discharges, including:

**2.5.6.7.23.1** Spill response procedures, and

**2.5.6.7.23.2** Storage of adequate oil and fuel clean-up equipment at the facility, on-board vessels, and at fuel transfer locations

### 11.16 Comment Summary

Comment was received that the temperature limit for discharges should be removed from Part 2.1.6.4 since many situations beyond the ability of processors to control will cause noncompliance with these effluent requirements including but not limited to ambient air temperatures. Part 2.1.6.4 requires all effluents to meet temperature limits but Table 4 and Table 5 have the limits removed so the requirements are unclear.

#### Response:

The permit only establishes a temperature limit for effluent, not a limit applicable to receiving water samples potentially affected by ambient air temperatures. 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 Fact Sheet Part 4.3.4. The

temperature limit in Part 2.1.6.4 is applicable to all effluents discharged to waters of the U.S., not just Outfall 001.

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

### 11.17 Comment Summary

Comment was received suggesting that Part 2.1.12 be removed from the permit entirely, as this Part is redundant to BMP requirements in Part 2.5.6.5.1 (also see Response to Comment 4.5).

**Response:**

The Department notes that where determined significant, redundant requirements have been included in the permit.

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

### 11.18 Comment Summary

Comment was again received that monitoring and testing requirements in Table 3, Table 4, and Table 5 are excessive and are not appropriate for the general permit. The commenter stated that the proposed requirements would burden older facilities and smaller companies with significant financial costs and do not include any reduced testing where proactive actions have been taken (also see Response to Comment 5.1 and 5.5).

**Response:**

This comment has been previously addressed in Response to Comment 5.1 and 5.5.

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

### 11.19 Comment Summary

Comment was received that the permit should include an option for facilities utilizing an AKG523000 permit for inland water waste discharge to request an exemption from duplicate monitoring of Outfall 001 and Outfall 002.

**Response:**

Sampling performed under the AKG523000 permit and the AKG521000 permit is meant to be representative of the discharge authorized and being discharged under each permit. The sampling needs to be representative of what is being transferred to the inland water discharge vessel and the waste stream being discharged through the outfall.

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

### 11.20 Comment Summary

Comment was received that the terminology “seafood byproducts” is confusing in what Part 2.2.1.2 aims to include. Byproduct processes that do produce waste (fish oil, fish meal) may have multiple waste streams that do not recombine prior to mixing with Outfall 001, and the commenter requested clarification on whether the intent of Table 3 was for each waste stream to be sampled separately.

**Response:**

Seafood by-product is defined in Appendix C, which specifically includes fish meal, bone meal, fish oils, and hydrolysate (see also Part 2.2.5.1). The permit states the permittee shall monitor discharges from seafood by-product production, which includes sampling the by-product line(s) prior to combining with the primary outfall. If there is not waste generated by by-product production, then monitoring in Part 2.2.5 would not apply. Permit Part 2.2.5.1 also states that the sampling point shall be located prior to commingling (internal outfall) with other seafood processing waste streams (if commingled). Table 4 (incorrectly noted in the comment received as Table 3) requires the permittee to sample the by-product waste stream separately, either internally prior to commingling with

Outfall 011 or before discharge to waters of the U.S.

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

### 11.21 Comment Summary

Comment was received suggesting that catch transfer water monitoring be removed from the permit for facilities who cannot handle the water through the waste treatment system and that a controlled study performed by industry would generate more useful data.

#### Response:

As previously noted in Response to Comment 4.11, catch transfer water is a point source discharge of process wastewater that includes pollutants, falls under the jurisdiction of the APDES program, and must meet WQS. Monitoring the catch transfer water is necessary to determine whether future discharge and authorization limits will need to be imposed under the permit. The Department has imposed this monitoring requirement only during the 2<sup>nd</sup> and 4<sup>th</sup> years of permit coverage.

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

### 11.22 Comment Summary

Comment was received requesting clarification as to which outfalls are required to be tested under Table 5. The commenter noted that the fact sheet suggests the Department intends for non-contact cooling water to be tested, but Part 2.1.8.8 suggests that this is not the case unless the wastewater comes into contact with seafood waste.

#### Response:

Permit Part 2.1.8.8 refers to the daily sampling of “Other Wastewaters” that come into contact with seafood waste for seafood processing waste solids size compliance (1.27 cm or 0.5 inch in any dimension). The daily solid size compliance sampling is found in Part 2.1.7.4.

The “Other Wastewaters” effluent monitoring required in Table 5 applies to other outfall(s) that are not commingled with the main seafood processing outfall. This would include a separate non-contact cooling water outfall, or catch transfer water discharged to a vessel, as examples.

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

### 11.23 Comment Summary

Comment was received that the requirement to develop, implement, operate, and maintain a BMP Plan and a QAPP within 60 days of permit coverage should be required within 90 days for existing facilities and 60 days for new applicants. Comment was also received that the QAPP requirements are unnecessarily complicated and require qualified personnel (also see Response to Comment 6.2 and 7.1).

#### Response:

As already addressed in Response to Comment 7.1, the QAPP requirements are standard QAPP provisions included in APDES permits. The “within 60 days of permit coverage timeline” is also standard of both the QAPP and the BMP Plan in APDES permits. Since the permit requires monitoring to commence upon receipt of an authorization, it is important for the facility to have the QAPP and the BMP Plan in place within 60 days of receipt of the authorization. The QAPP helps outline the procedures for those who conduct the monitoring to ensure that the data they collect and analyze meets the permit requirements, and the BMP Plan helps ensure the proper operation and maintenance of the facility and the control of the discharge or potential release of pollutants to the receiving water.

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

### 11.24 Comment Summary

Comment was received suggesting DEC update Part 2.5.6.7.17.3 with the less-confusing language found in

the AKG528000 Kodiak General Permit.

**Response:**

The Department made the following edits to Part 2.5.6.7.17.3, as requested:

**2.5.6.7.17.3** How the facility plans to mitigate and report accidental or emergency releases which are not authorized by the permit, ~~including damaged or severed outfall pipe(s).~~

**11.25 Comment Summary**

Comment was received that Part 2.5 references that the “permittee shall keep a copy of the document with this permit’s BMP Plan” and this Part should contain language with electronic storage options to ensure facilities are not re-printing multiple copies of facility documents, as it is understood that facilities are moving towards electronic sharing options.

**Response:**

Permit Part 2.5.9 states under the BMP Plan availability that an electronic or physical copy of the BMP Plan must be kept onsite. The permittee can infer that other documents required to be stored with the BMP Plan under Part 2.5 may be stored similarly to Part 2.5.9.

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