FACT SHEET

NPDES Permit Number:	WAG520000
Public Notice Start Date:	August 24, 2015
Public Notice Expiration Date:	October 8, 2015
Technical Contact:	Lindsay Guzzo (206)-553-0268, Guzzo.Lindsay@epa.gov, or, 1-800-424-4372 (within Region 10)

The U.S. Environmental Protection Agency (EPA) Proposes to Issue General Wastewater Discharge Permits to:

Offshore Seafood Processors in Federal Waters off the coast of Washington and Oregon

EPA Proposes NPDES Permit Issuance

The EPA proposes to issue a National Pollutant Discharge Elimination System (NPDES) general permit to Seafood Processors discharging in Federal Waters off the coast of Washington and Oregon (Draft Permit). The Draft Permit authorizes and sets conditions on the discharge of pollutants from these processors to waters of the United States. In order to ensure protection of water quality and human health, the Draft Permit places limits on the types and amounts of pollutants that can be discharged.

This fact sheet includes:
- information on public comment, public hearing, and appeal procedures;
- a description of the types of facilities, proposed discharges, and receiving waters covered by the Draft Permit;
- a description of the proposed effluent limits and other conditions; and
- monitoring requirements required by the Draft Permit.

Public Comment on the Draft Permit

Persons wishing to comment on the Draft Permit may do so in writing by the expiration date of the public notice. All comments must be in writing and must include the commenter's name, address, telephone number, the permit name, and the permit number. Comments must include a concise statement of their basis and any relevant facts the commenter believes EPA should

consider in making its decision regarding the conditions and limitations in the final permit. All written comments and requests must be submitted to the attention of the Director, Office of Water and Watersheds at the following address: U.S. EPA, Region 10, 1200 6th Avenue, Suite 900, OWW-191, Seattle, WA 98101. Alternatively, comments may be submitted by facsimile to (206) 553-1280; or submitted via e-mail to Guzzo.Lindsay@epa.gov by the end date of the public comment period.

Persons wishing to request that a public hearing be held may do so, in writing, by the end date of this public comment period. A public hearing is a formal meeting wherein EPA officials hear the public's views and concerns about an EPA action or proposal. A request for a public hearing must state the nature of the issues to be raised, reference the permit name and NPDES permit number, and include the requester's name, address, and telephone number.

After the comment period closes, and all significant comments have been considered, EPA will review and address all submitted comments. EPA's Regional Director for the Office of Water and Watersheds will then make a final decision regarding permit issuance. If no comments are received, the tentative conditions in the Draft Permit will become final. The permit will become effective 30 days after it is issued, unless it is stayed by the court in response to an appeal. Pursuant to Section 509(b)(1) of the Clean Water Act, 33 U.S.C. § 1369(b)(1), any interested person may appeal the permit in the Ninth Circuit Court of Appeals within 120 days following notice of EPA's final decision for the permit.

Documents are Available for Review

The Draft Permit and related documents can be reviewed or obtained by visiting or contacting EPA's Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday (see address below). Copies and other information may be requested by writing to EPA at the above address to the attention of the NPDES Permits Unit, or by calling (800) 424-4EPA.

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900, OWW-191
Seattle, Washington 98101
206-553-0523 or
1-800-424-4372 (within Alaska, Idaho, Oregon, and Washington)

The draft permit and fact sheet can also be found by visiting the Region 10 website at: www.epa.gov/r10earth/water.htm.

For technical questions regarding the Draft Permit or fact sheet, contact Lindsay Guzzo at the phone numbers or email addresses at the top of this fact sheet. Additional services can be made available to person with disabilities by contacting Audrey Washington at 206-553-0523.

I. INTRODUCTION

Section 301(a) of the Clean Water Act (CWA), 33 U.S.C. § 1311(a), provides that the discharge of pollutants to surface waters of the United States is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. 40 CFR 122.28 authorizes EPA to issue general NPDES permits to categories of discharges when a number of point sources:

- are located within a geographic area;
- involve the same or substantially similar types of operations;
- discharge the same types of wastes;
- require the same effluent limitations or operating conditions;
- require the same or similar monitoring requirements; and
- in the opinion of EPA, are more appropriately controlled under a general permit than under individual permits.

EPA has determined that it is appropriate to issue a NPDES general permit in this case. The owners and operators of the seafood processing facilities covered by this Draft Permit operate within waters of the United States in Federal Waters off the coast of Washington and Oregon. All of the facilities are similar in the way that they operate and in what they discharge. Moreover, the facilities are subject to the same effluent limitations, operating conditions, and monitoring requirements.

This is the first Permit proposed to be issued to these facilities in Federal Waters off the coasts of Washington and Oregon.

II. BACKGROUND INFORMATION

A. Facilities covered by the Permit

The Draft Permit proposes to authorize discharges of seafood processing waste from facilities, discharging in Federal Waters off the coasts of Washington and Oregon. These seafood processing facilities engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of washed or unwashed mince or paste, or the processing of meal and other secondary by-products.

Currently, there are less than 20 known seafood processing facilities that discharge effluent into waters of the U.S. that operate in these Federal Waters. Seafood processors

are generally differentiated from other food processing industries in the Standard Industrial Classification Manual (OMB1987) as "canned and cured fish and seafoods" (SIC no. 2091), "prepared fresh and frozen fish and seafoods" (SIC no. 2092), "animal and marine fats and oils" (SIC no. 2077) and "food preparations, not elsewhere classified" (SIC no. 2099).

This Permit does not authorize the discharge of pollutants from any shorebased facilities, nor any pollutants from vessels transporting material for the purposes of dumping materials into ocean waters. The only discharges that are authorized are the discharges from the seafood processing facilities described in the previous paragraphs.

B. Description of Seafood Processing Activities

Offshore seafood processors, vary in their production line(s), processing steps, capacity, finished products, etc. The location of processing varies continually. Vessels are in constant motion with speeds range from 3 to 18 knots (3.5 to 20.7 mph). All processing occurs in federal waters. The following narrative provides a generalized description of how processing works aboard an offshore processor.

Sea water is used to move raw fish and waste via flumes to grinders and discharge chutes and secondarily for clean-up and sanitation. Freshwater is either generated onboard or acquired from a shore-based source. It is then used in the surimi making process (where available), for employee housing and sanitation needs.

The production process begins when fish is hauled on board. The fish are emptied into a holding bin, then sorted by primary species. Species that are not processed, are returned to the sea via the discard chute as whole fish. The remaining catch is sent to the starting point of one of the processing lines.

Processing lines consists of a machine that will head, gut, debone and skin the fish. If the desired product is headed/gutted fish only the first two processes are performed. Otherwise the end product is boned and skinned fillets. The belly flap trim is transferred to a mince processing line, if the vessel has that capability onboard. On vessels that have a fishmeal processing line, the head, guts and skin are transferred there for further processing. On vessels where no fishmeal processing line exists, these materials are ground and discharged.

Fillets that meet quality standards are frozen in blokes, packed and stored. Those fillets that do not meet quality standards as fillets are transferred either to the mince operation if the quality meets mince standards, to fishmeal if they do not meet mince standards, or are ground and discharged if no further processing is available.

The backbones go to the surimi processing line which extracts flesh from the bones. After the flesh is extracted from the bones, they are transferred to the fishmeal processing

line, if available. If the fishmeal line cannot handle all the fish bones due to the volume of the catch, the excess bones are transferred to the discharge sump, ground and discharged.

The only other processing-related waste that is discharged is the wash down wastewater that includes fish products that end up inadvertently on the floor. This waste is ground and discharged.

Fish processed as headed/gutted recover approximately 50 percent of raw input. Fish processed into fillets have recovery rates ranging from 25 to 50 percent. Surimi production, a minced flesh product, recovers from 7 to 22 percent of the whole fish depending on the primary product of the processing effort. Reported estimates for recovery as fishmeal range from 3 to 7 percent, and a recovery estimate has been reported for fish oil of one percent of raw input.

C. Waste Characteristics

The quantity and character of the seafood processing wastes generated vary due to the types of fish processed, finished product, and seasonal variation in their abundance. Discharges from offshore seafood processors may be classified into solid (particulate) and dissolved (soluble) wastes.

Solid Waste
Solid waste generated from seafood processing include ground and unground waste materials. The ground fish waste stream consists of processed raw fish and shellfish include heads, skin, scales, viscera, tail fins, shells discarded during cleaning and butchering operations, damaged fish, and unusable fish. Unground solid waste is comprised of sea debris, prohibited species fish and bycatch species that are neither processed nor retained.

The quantity and chemical composition of the solid waste discharged by seafood processing facilities determines the effects that the discharges may have on the aquatic environment. The solid wastestream is characterized in the ODCE based on data available for bottomfish, but is similar across all finfish. Seafood processing solid waste consists of both organic and inorganic material including protein, fat (oil and grease), and ash (inorganic component of fish waste). Most of the solid fish waste contains at least 75 percent water. The percentages of protein are approximately 10-15 percent wet weight. The percentage of fat is generally less than 3 percent, although viscera from pollock (a bottomfish similar to Pacific whiting) had a much higher fat content (40 percent of wet weight). The percentage of ash, which represents the inorganic component of fish waste, is generally less than 5 percent wet weight. The percent of carbon, nitrogen, phosphorus, and sulfur based on wet weights is estimated at 16.7, 2.9, 0.3 and 0.3 percent respectively.

Dissolved Wastes from Seafood Processing
Dissolved wastes include solubilized organic matter and nutrients leached from fish tissues after processing. Oil and grease, Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and disinfectants used to maintain sanitary conditions in compliance with requirements for the production of food for human consumption can be found in dissolved form in seafood processing waste effluent.

Stickwater
Stickwater is the mixture of water, oil, proteins, fats and ash separated from the press liquor generated during the production of fish meal. After decanting to remove oil, this stream is a dilute solution of insoluble fines, very fine denatured solubles, and water soluble connective tissue. A small amount of fish oil is present as an emulsion with the protein.

Surimi Wastewater
Surimi production is a washed minced fish product. The manufacturing process includes gutting, heading, deboning and filleting followed by mincing and washing. Surimi wastewater is relatively high in TSS and BOD and has the highest values for oil and grease compared to other liquid wastes.

Wash-down Water
Wash-down water is used to remove wastes and maintain sanitary standards during processing operations. In addition to the organic materials, these discharges may include disinfectants that could contain chlorine-, iodine-, or ammonium chloride-based solutions. These wastes are generally low in volume.

Sanitary Wastewater
Sanitary waste is human body waste discharged from toilets and urinals. The pollutants associated with this discharge include TSS, BOD, bacteria, and residual chlorine.

Other Wastewaters
Other wastewaters include other liquid wastes generated during seafood processing operations. These low-volume wastes include catch transfer water, live tank water, refrigerated seawater, cooking water, boiler water, cooling water, refrigerator condensate, pressure relief water, clean-up water and scrubber water. Wastewaters not having contact with seafood are not required to be discharged through the seafood process waste-handling system.

D. Discharges covered by the Permit

The Draft Permit proposes to authorize the following discharges:

1. Seafood process wastewater and wastes, including the waste fluids, heads, organs, flesh, fins, bones, skin, chitinous shells, and stickwater produced by the conversion of aquatic animals from a raw form to a marketable form.

2. Wash-down water, including process disinfectants added to wash-down water used to control microbial contamination of seafood processing equipment and containers, and to sanitize seafood processing areas.

3. Sanitary and domestic wastes and gray wastewater associated with the kitchen, shower, sink, and toilet effluents.

4. Other wastewaters generated in the seafood processing operation, including, seafood catch transfer water, live tank water, refrigerated seawater, cooking water, boiler water, gray water, cooling water, refrigeration condensate, freshwater pressure relief water, clean-up water, and scrubber water.

E. Discharges not authorized by the Permit

1. The Permit does not authorize the discharge of any waste or waste streams, including spills, garbage, equipment, and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the NOI to be covered, and specifically authorized by this Permit.

2. This Permit does not authorize the discharge of pollutants from any shorebased facilities, nor the discharge of any pollutants from vessels transporting material for the purposes of dumping materials into ocean waters.

3. This general NPDES permit does not authorize any discharges from facilities that (1) have not submitted a Notice of Intent and received written authorization to discharge under this Permit from EPA or (2) have not been notified in writing by EPA that they are covered under this Permit as provided for in the 40 CFR 122.28(b)(2)(vi).

4. The discharge of petroleum (e.g., diesel, kerosene, and gasoline) or hazardous substances into or upon the navigable waters of the U.S., adjoining shorelines, into or upon the waters of the contiguous zone which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the U.S., is prohibited under 33 U.S.C. § 1321(b)(3).

F. Receiving waters covered by the Permit

The Draft Permit proposes to authorize discharges of seafood processing wastes to Federal Waters from offshore seafood processors. Federal waters include the Contiguous

Zone, and the ocean, which include the exclusive economic zone (EEZ). According to Article 24 of the Convention of the Territorial Sea and Contiguous Zone, the Contiguous Zone is the zone of the high seas contiguous to the territorial seas extending out to 12 nautical miles (NM) from the baseline from which the breadth of the territorial sea is measured. The CWA defines "ocean" as any portion of the high seas beyond the Contiguous Zone, 33 U.S.C. § 1362(10). The CWA defines "territorial seas" as those waters measured from the line of ordinary low water along the portion of the coast that is in direct contact with the open sea and/or the baseline marking the seaward limit of inland waters, extending seaward for 3 NM, 33 U.S.C. § 1362(8). Presidential Proclamation 5928, of December 27, 1988, extended the territorial seas boundary to 12 NM; however, this proclamation did not alter the CWA definition; therefore, under the CWA, the territorial seas boundary remains at 3 NM. In sum, this permit authorizes discharges into Federal Waters which is defined as those water that are 3 NM seaward of the baseline or, if there is no baseline, the line of ordinary low water along the portion of the coast that is in direct contact with the open sea.

G. Receiving waters not authorized by the Permit

This Permit does not authorize the discharge of pollutants in the following areas:

1. Any waters inland from the west coasts of Washington and Oregon, including but not limited to, the Strait of Juan de Fuca and the Salish Sea.

2. Any waters under the jurisdiction of Canada.

3. Any waters south of the Oregon / California boarder (42^{o}00" N lat).

4. Any state waters.

III. APPLYING FOR COVERAGE UNDER THE PERMIT

A. How to apply for coverage under the Permit

A Notice of Intent (NOI) to be covered under the Permit, or an equivalent form containing all necessary information is required to be submitted in order for a facility to obtain coverage under this permit, 40 CFR 122.28(b)(2)(i). The specific requirements for the NOI are outlined in Part IV of the Draft Permit. A permittee seeking authorization to discharge under the Permit should submit a timely and complete NOI and all supplementary documents to EPA at least 90 days prior to the desired date of coverage. This time period will allow EPA adequate time to review the application, and inform the applicant of its permit determination. An NOI shall include information on the facility, its owners and operators, its process and discharges, and the receiving water in

accordance with Part IV.C of the Draft Permit. A facility is not authorized to discharge until it receives an authorization letter from EPA.

B. Individual Permits

1. Facilities Requiring an Individual Permit

   Pursuant to 40 CFR 122.28(b)(3), EPA may require any discharger applying for or covered by a general permit to apply for and obtain an individual permit. In addition, any interested person may petition EPA to take this action. EPA may consider the issuance of individual permits when:

   a. The single discharge or the cumulative number of discharges is/are a significant contributor of pollution;

   b. The discharger is not in compliance with the terms and conditions of the general permit;

   c. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

   d. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;

   e. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or

   f. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

   These provisions are incorporated into the Draft Permit at Part IV.A.2.

2. Applying for authorization to discharge under an individual permit [40 CFR 122.28(b)(3)(G)(iii)]

   Pursuant to 40 CFR 122.28(b)(3)(G)(iii), any operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The operator shall submit an application, with reasons supporting the request, to EPA no later than 90 days after the publication by EPA of the general permit in the Federal Register. This application shall include NPDES

permit application Forms 1 and 2C, together with the same information as in Part IV.C of this Draft Permit.

C. Transfers

The EPA regulations at 40 CFR § 122.41(l)(3) allow for transfers of Permit authorizations. Transfers will only be authorized upon written approval from the EPA.

D. Permit Coverage Termination

The permittee must submit a written notice when Permit coverage is no longer needed.

E. Continuation of Permit Coverage

In accordance with 40 CFR 122.46(a), NPDES permits shall be effective for a fixed term not to exceed five (5) years. Therefore, the Permit will expire five years from the effective date of the final permit.

If the Permit is not reissued prior to the expiration date, Permittees may be eligible for an administrative extension of coverage in accordance with the Administrative Procedures Act and coverage will remain in full force. However, the EPA cannot provide administrative extension of coverage under this general permit to any Permittee who submits the NOI for reissuance to the EPA after the permit expiration date. Therefore, any Permittee granted coverage under the Permit prior to the expiration date that submits a complete NOI package for reissuance within the proper time frame, and receives notice from the EPA that the NOI is deemed timely and complete, will remain covered by this Permit until the earlier of:

- Authorization for coverage under reissuance or a replacement of this general permit following timely and appropriate submittal of a complete NOI requesting authorization to discharge under the new permit and compliance with requirements of the new permit;
- The Permittee's submittal of a Notice of Termination;
- The issuance of an individual NPDES permit; or,
- A formal permit decision by the Director not to reissue this General Permit, at which time the Permittee must seek coverage under an alternative general or individual permit (Part IX.B, “Duty to Reapply”).

IV. WHAT CONDITIONS ARE REQUIRED BY THE GENERAL PERMIT

A. General approach to determining effluent limitations

Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to waters of the U.S. unless authorized pursuant to a NPDES permit. CWA Section 402, 33 U.S.C. § 1342, authorizes EPA to issue NPDES permits authorizing discharges subject to limitations and requirements imposed pursuant to Sections 101, 301(b), 304, 308, 401 and 403 of the Act, 33 U.S.C. §§ 1251, 1311(b), 1314, 1318, 1341, and 1343. EPA evaluates discharges with respect to these sections of the CWA and the relevant NPDES regulations in determining which conditions to include in the permit. Pursuant to these statutory provisions, EPA is required to include effluent limitations that (1) meet standards reflecting levels of technological capability, (2) comply with EPA-approved State water quality standards, (3) comply with other State requirements adopted pursuant to CWA Section 510, 33 U.S.C. § 1370, and (4) cause no unreasonable degradation to the territorial seas, contiguous zone, or oceans. Moreover, many NPDES permits impose reporting/information gathering requirements pursuant to CWA Section 308, 33 U.S.C. § 1318.

In general, EPA first determines which technology-based limits apply to the subject discharges in accordance with the national effluent limitation guidelines and standards. EPA then determines whether there are any more stringent water quality-based effluent limits that may apply to the discharges. EPA is required to impose the limit that is most stringent in the permit.

EPA must also include monitoring requirements in the permit to monitor compliance with effluent limitations pursuant to 40 CFR 122.44(i). Ambient monitoring may also be required to gather data for future effluent limitations or monitor effluent impacts on receiving water quality and the integrity of the water resource.

The basis for each permit condition is described in more detail below.

B. Technology-based limitations

The CWA requires particular categories of industrial dischargers to meet technology-based effluent limitations established by EPA. The CWA initially focused on the control of traditional pollutants (*i.e.,* conventional pollutants and some metals) through the use of best practicable control technology currently available (BPT). For conventional pollutants (*i.e.*, pH, BOD, TSS, oil and grease, and fecal coliform), CWA Section 301(b)(1)(E), 33 U.S.C. § 1311(b)(1)(E), requires the imposition of effluent limitations based on best conventional pollutant control technology (BCT). For nonconventional and toxic pollutants, CWA Section 301(b)(2)(A), (C), and (D), 33 U.S.C. §1311(b)(2)(A), (C), and (D), require the imposition of effluent limitations based on best available

technology economically achievable (BAT). CWA Section 301(b), 33 U.S.C. § 1311(b), requires compliance with BCT and BAT no later than March 31, 1989. Where EPA has not yet developed guidelines for a particular industry, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44 and 125.3).

For New Sources, as that term is defined in 40 CFR 122.2, CWA Section 306, 33 U.S.C. § 1316, requires the imposition of effluent limitations for conventional and toxic pollutants based on new source performance standards (NSPS). CWA Section 306, 33 U.S.C. § 1316, requires compliance with NSPS no later than the effective date of such standards.

1. Process and process-associated wastes

   EPA has promulgated final ELGs specifying BCT, BPT, and NSPS for specific categories of seafood processing. These ELGs are codified at 40 CFR Part 408. When the ELGs were promulgated, the offshore seafood processing industry either did not exist or was in its infancy. Therefore, offshore processors were not analyzed during the development of the ELGs. As such, the ELGs do not apply to the offshore seafood processors that may be covered under this permit. Since there are no ELGs applicable to these facilities, EPA may use its BPJ in establishing technology based effluent limits in the permit.

   Grinding seafood waste to 0.5 inch has been the technology-based effluent limitation applicable to offshore seafood processing facilities in offshore waters around Alaska for over 30 years. The majority, if not all, of the vessels that would likely apply for coverage under the Draft Permit also operate in Alaskan waters and, thus, have the equipment on board to grind their waste to 0.5 inch. The 0.5 inch limitation was originally used for remote Alaska locations in consideration of the expense and logistical difficulties associated with much of Alaska. The 0.5 inch grind effluent limitation was also the BPJ effluent limit that was established in an individual NPDES permit for a seafood processing vessel that discharges to the Atlantic Ocean. Ground wastes should disperse rapidly in the waters covered by the Permit.

   In addition to grinders, most of the vessels known to discharge in the coverage area of the Draft Permit also have the capacity onboard to produce fishmeal and/or fish oil. When these by-product recovery systems are fully utilized, wastes discharged to the receiving waters are greatly reduced. Because grinding is economically and technologically feasible, the BPJ requirements for the draft permit are as follows:

   a. Permittees must send all solid seafood processing wastes through a properly maintained and operating grinder system designed and operated to grind solids to 0.5 inch or smaller prior to discharge. This 0.5 inch effluent requirement does not

apply to (1) the calcareous shells of scallops, clams, oysters and abalones, (2) the calcareous shells (i.e., tests) of sea urchins, or (3) incidental catches of prohibited and by-catch species which are neither retained nor processed.

b. Permitees must fully utilize to the extent practicable all treatment processes available on board their vessel to reduce wastes discharges, including but not limited to fishmeal and fish oil production.

2. Sanitary wastewaters.

Sanitary wastewater must be discharged in accordance to U.S. Coast Guard regulations [33 CFR Part 159] through a certified and operable Type I or Type II Marine Sanitation Device prior to discharge.

C. Water quality-based effluent limitations

Section 301(b)(1)(C) of the CWA, 33 USC § 1311(b)(1)(C), requires that NPDES permits include any effluent limitations necessary to meet the EPA-approved state water quality standards in state waters. As the area of coverage authorized under the Draft Permit does not include state waters, neither Washington nor Oregon water quality standards apply.

D. Ocean Discharge Criteria Evaluation

Section 403 of the CWA, 33 USC § 1343, prohibits issuing an NPDES permit for discharges into the territorial seas, the contiguous zones, and the oceans except in compliance with the ocean discharge guidelines, 40 CFR Part 125, Subpart M. The guidelines set out criteria that EPA must evaluate to ensure that point source discharges do not cause unreasonable degradation to the marine environment. The criteria are set out in 40 CFR § 125.122.

After completing an ocean discharge criteria evaluation (ODCE), EPA: (a) may issue an NPDES permit if the proposed discharge will not cause unreasonable degradation to the marine environment (40 CFR § 125.123(a)); (b) will not issue an NPDES permit if the proposed discharge will cause unreasonable degradation (40 CFR § 125.123(b)); or (c) may issue an NPDES permit where there is insufficient information to make an unreasonable degradation determination, if EPA also determines that the discharge will not cause irreparable harm to the marine environment while further evaluation is undertaken, that there are no reasonable alternatives to on-site discharge, and that the discharge will comply with certain mandatory permit conditions, including a bioassay-based discharge limitation and monitoring requirements (40 CFR § 125.123(c)-(d)).

When reaching a determination that a proposed discharge will not cause unreasonable degradation, EPA may rely on any necessary conditions specified in 40 CFR §

125.123(d). These conditions include seasonal restrictions on discharges, process modifications, a monitoring program to assess discharge impacts, and any other conditions deemed necessary because of local environmental conditions. In addition, 40 CFR § 125.123(d)(4) authorizes EPA to modify or revoke a permit at any time if, on the basis of new data, the EPA determines that continued discharges may cause unreasonable degradation of the marine environment. 40 CFR § 125.121 states "unreasonable degradation of the marine environment" means:

1. Significant adverse changes in ecosystem diversity, productivity, and stability of the biological community within the area of discharge and surrounding biological communities;

2. Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms; or

3. Loss of aesthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

The determination of unreasonable degradation is to be made based on consideration of the following 10 criteria (40 CFR § 125.122):

1. The quantities, composition, and potential for bioaccumulation or persistence of the pollutants to be discharged;
2. The potential transport of such pollutants by biological, physical or chemical processes;
3. The composition and vulnerability of the biological communities that may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act (ESA), or the presence of those species critical to the structure or function of the ecosystem, such as those important for the food chain;
4. The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism;
5. The existence of special aquatic sites including, but not limited to, marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas, and coral reefs;
6. The potential impacts on human health through direct and indirect pathways;
7. Existing or potential recreational and commercial fishing, including fin fishing and shellfishing;
8. Any applicable requirements of an approved Coastal Zone Management Plan;
9. Such other factors relating to the effects of the discharge as may be appropriate;
10. Marine water quality criteria developed pursuant to CWA Section 304(a)(1).

EPA guidance (EPA 1994) finds that in areas that do not contain sensitive species or unusual biological communities, it may be concluded that discharges containing primarily conventional pollutants and in compliance with permit conditions will not cause unreasonable degradation. The guidance further finds this is especially appropriate where the data indicate that there will be significant mixing with the receiving waters based on the flow of the discharge (i.e. water depth, turbulence). The Draft Permit proposes to authorize discharges consisting largely of conventional pollutants, in manageable quantities and the areas covered under the Draft Permit are, for the most part, not considered sensitive or unique, therefore, providing appropriate grinding and dispersing is implemented, EPA has concluded that unreasonable degradation will not occur.

In general, degradation occurs in processing areas where poor or minimal flushing exists or the cumulative discharges of seafood processors exceed the assimilative capacity of the receiving water. The Draft Permit only covers discharges in Federal Waters at least 3 NM from shore usually in deep water, where tidal flushing is high and processing vessels are in constant motion. The combination of movement, wind, tide, and water depth greatly increases mixing and dispersion of ground discharges, assuring the assimilative capacity of the receiving water is not exceeded. Section 3.2 of the ODCE analyzes the fate and transport of pollutants authorized by the Proposed Permit.

The ODCE discusses compliance with marine water quality criteria which help ensure there is no unreasonable degradation of the marine environment. The marine water quality criteria, for pollutants of concern, which are included as proposed limits in the Draft Permit include residues/aesthetics, color, oil and grease, solids, and tainting.

The EPA has prepared a Draft ODCE for the Draft Permit, which informed EPA's permit development process. The EPA has determined that discharges authorized by the Draft Permit and discharged in accordance with the requirements of the Draft Permit will not cause unreasonable degradation to the marine environment.

E. Effluent Limitations and Requirements

The Draft Permit contains proposed limitations and other requirements to ensure protection of water quality, and to implement conditions resulting from the ODCE process. The following discussion summarizes the proposed limitations and other permit requirements.

1. Treatment of waste solids. The permittee must send all solid seafood processing wastes through a properly maintained and operating grinding system. The grinding system must be designed and operated to grind solids to 0.5 inch or smaller prior to discharge.

2. Dispersion. Effluent must be discharged to hydrodynamically energetic waters with a high capacity of dilution and dispersion.

3. Amount of seafood processing wastes. A permittee must not discharge a volume or weight of seafood processing waste residues on a daily or annual basis which exceeds the amount projected in the permittee's Notice of Intent to be covered under this Permit. Seafood processing vessels are in constant movement while discharging. Fate and transport analysis were completed in the ODCE to ensure protection of water quality in worst case scenarios.

4. Collection, conveyance, and treatment of seafood processing wastes. The permittee must route all seafood processing wastes through a waste conveyance and treatment system.

5. Utilization. Permitees must fully utilize, to the extent practicable, all treatment processes available on board their vessel that reduces the amount of fish waste discharged from the vessel, including by-product recovery like fishmeal and fish oil production.

6. Scupper and floor drain wastes. A permittee must route all seafood processing waste in scuppers and floor drains through a waste conveyance system to the waste treatment system prior to discharge. If safety and/or stability impediments would occur for the vessel by implementing this requirement, the permittee must specifically detail, in their Best Management Practices (BMP) plan, practices and procedures executed to deter seafood processing wastes from entering scuppers and floor drains.

7. Sanitary wastes. A permittee must route all sanitary wastes through a sanitary waste system that meets the applicable U.S. Coast Guard (USCG) pollution control standards then in effect [33 CFR 159: "Marine sanitation devices"]. Nonfunctioning and undersized systems are prohibited.

8. Other wastewaters. A permittee must not discharge any other wastewaters that contain pollutants listed below. The incidental foam and scum produced by discharge of seafood catch transfer water must be minimized to the extent practicable as described in the best management practices plan. Wastewaters that have not had contact with seafood (i.e. non-contact cooling water) are not required to be discharged through the seafood process waste-handling system.

9. Nuisance discharge. The discharge of seafood processing wastes must not create an attractive nuisance situation whereby fish or wildlife are attracted to waste disposal or storage areas in a manner that creates a threat to fish or wildlife or to human health and safety.

10. Residues/aesthetics. All receiving waters shall be free from substances attributable to wastewater or other discharges that:

    - settle to form objectionable deposits;
    - float as debris, scum, oil, or other matter to form nuisances;
    - produce objectionable color, odor, taste, or turbidity;
    - injure or are toxic or produce adverse physiological responses in humans, animals or plants; and,
    - produce undesirable or nuisance aquatic life.

11. Color. Waters shall be virtually free from substances producing objectionable color for aesthetic purposes and increased color (in combination with turbidity) should not reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonally established norm for aquatic life.

12. Oil and Grease.

    - Levels of oils or petrochemicals in the sediment which cause deleterious effects to the biota shall be prevented.
    - Surface waters shall be virtually free from floating nonpetroleum oils of vegetable or animal origin, as well as petroleum-derived oils.

13. Solids. Settleable and suspended solids shall not reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonally established norm for aquatic life.

14. Tainting. Materials shall not be present in concentrations that individually or in combination produce undesirable flavors which are detectable by organoleptic tests performed on the edible portions of aquatic organisms.

V. MONITORING AND REPORTING REQUIREMENTS

The following monitoring is required to ensure that the facility's systems are working properly and to ensure that effluent limitations and conditions are met.

A. Monitoring Requirements

1. By-catch. The Permittee must record the total pounds of by-catch and prohibited species discharged whole (unground), per day, and daily location of discharge.

2. Waste conveyance system. The Permittee must conduct a daily visual inspection of the waste conveyance, including a close observation of the sump or other places of effluent collection for the removal of gloves, earplugs, rubber bands, or other equipment used during the processing of seafood that may inadvertently be entrained in the wastewater. Logs of this daily inspection must be kept on-board the vessel until the end of the calendar year and then maintained at the business office thereafter. Logs must be submitted at the request of EPA.

3. Grinder system. The Permittee must conduct a daily inspection of the grinder system during the processing season to confirm that the grinder(s) is (are) operating properly as designed to reduce the size of the seafood residues to 0.5 inch. This will require inspecting the size of the ground residues reduced in grinding, by taking a representative sample of the ground discharge and ensuring the pieces are being ground appropriately. Logs of these daily inspections must be kept on-board the vessel until the end of the calendar year and then maintained at the business office thereafter. Logs must be submitted at the request of EPA.

4. Outfall system. The Permittee must discharge seafood processing wastes to or below the sea surface. A pre-operational check of the outfall system must be performed at the beginning of each processing season to ensure that the outfall system is operable. Logs of this inspection must be kept on-board the vessel until the end of the calendar year and then maintained at the business office thereafter. Logs must be submitted at the request of EPA.

5. Representative Pictures. For each outfall location, the Permittee must take at least four pictures quarterly while processing is occurring. Each quarter the four pictures must include at least one of each of the following:

    1. The sampling port and/or sample location while taking the daily sample;
    2. The effluent sample (showing residues size);
    3. The receiving water in the immediate vicinity of where the outfall system is discharging; and
    4. An extended view of the receiving water showing processing waste (if any) on the sea surface behind the vessel.

    Each picture must be labelled with date, time, name of person taking the picture, and a description of what the picture represents.

6. Sea surface monitoring. To ensure that effluent limitations and requirements of the

Permit are attained, sea surface monitoring is required daily. Logs of this monitoring must be kept on-board the vessel until the end of the calendar year and then maintained at the business office thereafter. Logs must be submitted at the request of EPA.

B. Annual Report

The Permittee must prepare and submit a complete, accurate and timely annual report of incidents of noncompliance, production, discharges, and process changes to EPA. The information must include:

- Verification of the Permittee's information.
- A summary of noncompliance that occurred between January 1st and December 31st of the previous year, including the reasons for such noncompliance, corrective actions, and preventative steps taken.
- A summary of production and discharge information during the previous year.
- Type and amount (pounds) of waste utilized to create fishmeal and/or fish oil per month. If not all waste is utilized through a fishmeal and/or fish oil system, explain why.
- Area map(s) and at least one daily location of the vessel, while processing, in degrees, minutes, and seconds.
- Total pounds of by-catch and prohibited species, not processed but returned to the sea unground (Part II.A.1.a.) per day, and the days discharged.
- Clear representative pictures. The pictures must be labeled and must include, the sampling port while taking the daily sample, the effluent (showing residues size), the receiving water in the immediate vicinity of where the outfall system is discharging, and an extended view of the receiving water showing processing waste (if any) on the sea surface behind the vessel. Labels should include the date, time, name of the person taking the picture, and a description of the picture itself.
- Total pounds of ammonia or Freon used with a summary of any occurrences of leaks or breaks in the refrigerator condenser system.

C. Best Management Practices

Best Management Practices (BMPs), in addition to numerical effluent limitations, may be required to control or abate the discharge of pollutants in accordance with 40 CFR 122.44(k). It is the national policy that, whenever feasible, pollution should be prevented or reduced at the source, that pollution which cannot be prevented should be recycled in an environmentally safe manner, that pollution which cannot be prevented or recycled should be treated in an environmentally safe manner, and that disposal or release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner [Pollution Prevention Act of 1990, 42 U.S.C. 13101 et seq.].

The permittee will discharge in accordance with best management practices which address the provisions of the Pollution Prevention Act.

In EPA's reassessment of the ELGs for seafood processors (Jordan 1979; EPA 1980b), in-plant management directed towards total utilization of the raw materials and by-product recovery was recommended as a fundamental and central element of waste reduction. Materials accounting, audits of in-plant utilization of water and materials, and best management practices were repeatedly recommended as the profitable approach to waste management in seafood processing plants at the "Wastewater Technology Conference and Exhibition for Seafood Processors" convened by the Fisheries Council of British Columbia in Vancouver, Canada in February 1994 (Ismond 1994).

The Draft Permit requires the development and implementation of BMPs that prevent or minimize the generation and release of pollutants to receiving waters including disinfectants which are known to be toxic to marine organisms. Seafood processors are required to implement BMPs which minimize process waste solids and disperse remaining process wastes through mobility.

All permittees shall develop and implement a BMP Plan within 60 days of the date that permittee's receives authorization to discharge under this Permit and submit certification that the BMP Plan has been completed and implemented.

EPA has developed a general handbook to assist industry in identifying and utilizing BMPs and in developing and implementing materials accounting and BMP Plans (EPA 1993). EPA has developed an industry-specific handbook to assist seafood processors in identifying and utilizing BMPs and in developing and implementing materials accounting and BMP Plans (EPA and Bottomline Performance 1994).

The BMP Plan must be amended whenever there is a change in the facility or in the operation of the facility which materially increases the potential for an increased discharge of pollutants.

VI. OTHER REQUIREMENTS

A. Standard Permit Provisions

Parts VII and VIII of the Draft Permit contains standard regulatory language that must be included in all NPDES permits. The standard regulatory language covers requirements such as monitoring, recording, reporting requirements, compliance responsibilities, and other general requirements.

B. Coastal Zone Management Act [16 U.S.C. 1451 et seq.]

The Coastal Zone Management Act and its implementing regulations [15 CFR 930] prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification [40 CFR 122.49(d)]. Discharges under the Draft Permit are to federal waters only and do not effect state waters covered under the Coastal Zone Management program for Washington nor Oregon.

C. Endangered Species Act

Section 7 of the Endangered Species Act requires Federal agencies to consult with NOAA Fisheries and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. A list of endangered and threatened species and species of concern was obtained for the waters covered by the Draft Permit, and EPA prepared a biological evaluation as required by ESA.

EPA has concluded that the discharges authorized by the Draft Permit are not likely to have an adverse effect on any endangered or threatened species or its critical habitat.

EPA is requesting concurrence from NMFS and USFWS on the draft permit and will consider their comments in the final permit decision. EPA will initiate consultation should new information reveal effects not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

D. Marine Mammal Protection Act

Section 2 of the Marine Mammal Protection Act finds that marine mammals are resources of great international significance, aesthetic, recreational and economic, and should be protected, conserved and encouraged to develop optimum populations. In particular, efforts should be made to protect the rookeries, mating grounds and areas of

similar significance for each species of marine mammal from the adverse effect of man's actions. A moratorium has been placed on the taking (harass, capture, or kill) marine mammals in U.S. waters.

No rookeries, mating grounds nor areas of similar significance for any species of marine mammal exist within the action area of the Draft Permit, therefore, no special requirements or limitations have been implemented under this Act.

E. Essential Fish Habitat

The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA Fisheries when a proposed discharge has the potential to adversely affect an Essential Fish Habitat (EFH). The EFH regulations define an adverse effect as "any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g. contamination or physical disruption), indirect (e.g. loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions." NOAA Fisheries may recommend measures for attachment to the federal action to protect EFH; such recommendations are advisory, not proscriptive, in nature.

EPA has tentatively determined that the issuance of this Draft Permit will cause minimal effects upon EFH species and habitat in the vicinity of seafood processor discharges of processing wastewater and waste solids. EPA has requested that NMFS issue a "general concurrence" for this Permit issuance.

A general concurrence identifies specific types of Federal actions that may adversely affect EFH, but for which no further consultation will generally be required. In order to issue a general concurrence, NMFS must determine, after coordinating with the appropriate Fishery Management Council(s) and reviewing public comment, that the actions are (1) similar in nature and similar in their impact on EFH, (2) do not cause greater than minimal adverse effects on EFH when implemented individually, and (3) do not cause greater than minimal cumulative adverse effects on EFH. NMFS requires (1) a written description of the nature and approximate number (annually or by some other appropriate time frame) of the proposed actions, (2) an analysis of the effects of the actions on EFH and associated species and their life history stages, including cumulative effects, and (3) the Federal agency's conclusions regarding the magnitude of such effects.

This fact sheet, the Draft Permit, biological evaluation, and the Seafood ODCE have been submitted to NMFS for review. Additional information will be provided to NMFS as needed during the consultation. Any recommendations received from NMFS regarding EFH will be considered for incorporation into this Draft Permit prior to final issuance of the Permit.

If NMFS, after coordinating with the appropriate Fishery Management Council(s), determines that a General Concurrence is appropriate, it will provide EPA with a written statement that further consultation is not required for the permitting activities specified in the General Concurrence.

F. Executive Order 12291

The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order. Guidance on Executive Order 12866 contains the same exemptions on OMB review as existed under Executive Order 12291. EPA, however, has prepared a regulatory impact analysis in connection with its promulgation of guidelines on which a number of the Draft Permit's provisions are based and has submitted it to OMB for review (See 58 FR 12494).

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in the Draft Permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. OMB has already approved most of the Draft Permit's information collection requirements in submissions made for the NPDES permit program under the provisions of the CWA. This information has been assigned OMB control number: No. 2040-0086 for NPDES permit applications and No. 2040-0004 for the discharge monitoring report form.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent, Draft Permit and fact sheet, the Administrator of EPA certifies, pursuant to the provisions of 5 U.S.C. 605(b), that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the Draft Permit reduces a significant administrative burden on regulated sources.

VII. REFERENCES

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