# Fact Sheet

NPDES Permit Number: AKG-52-7000
Public Notice Start Date: **OCTOBER 2, 1998**
Public Notice Expiration Date: **NOVEMBER 1, 1998**

## The U.S. Environmental Protection Agency (EPA) Plans

**To Reissue a Wastewater Discharge Permit to**
**Seafood Processors Discharging Wastes and Wastewaters within**
**Three Nautical Miles of the Pribilof Islands, Alaska;**
**and**
**To Issue a Wastewater Discharge Permit to the City of St. Paul**

and

## The State of Alaska Proposes to Certify the Permit and Issue a Consistency Determination

**EPA Proposes NPDES Permit Reissuance**

EPA proposes to reissue a National Pollutant Discharge Elimination System (NPDES) permit to the owners and operators of seafood processing facilities and vessels discharging seafood processing wastes and other wastewaters within three nautical miles of the Pribilof Islands and to include in the Permit authorization for the city of St. Paul to discharge treated domestic wastewater. The draft permit sets forth effluent limitations, monitoring requirements, and other conditions for discharges of seafood processing wastes and wastewaters and for the city of St. Paul's domestic discharge.

The Fact Sheet includes:

- information on public comment, public hearing and appeal procedures.
- a description of the current discharges.
- a listing of proposed effluent limitations and other requirements and conditions.
- maps and specific requirements for discharge locations.

**The State of Alaska proposes certification and consistency determination**

The Alaska Department of Environmental Conservation (ADEC) proposes to certify the NPDES permit under Section 401 of the Clean Water Act. In addition, the Alaska Division of Governmental Coordination (DGC) proposes to issue a determination that the permit is consistent with the Alaska Coastal Management Program under Section 307(c) of the Coastal Zone Management Act.

**EPA invites comments on the draft permit**

EPA will consider all substantive comments before issuing a final permit. Those wishing to comment on the draft permit or wishing to request a public hearing be held may do so in writing by the expiration date of the Public Notice. A request for a public hearing must state the nature of the issues to be raised as well as the requester's name, address, and telephone number. After the Public Notice expires, and all comments have been considered, EPA Region 10 Office of Water Director will make a final decision regarding permit issuance.

Persons wishing to comment on State Certification should contact the State of Alaska Department of Environmental Conservation, Watershed Management Section, Attn: Robert Dolan, at 555 Cordova Street, Anchorage, Alaska 99501, for information on how to submit comments.

Persons wishing to comment on the State Determination of Consistency with the Alaska Coastal Management Program should contact the State of Alaska, Southcentral Regional Office, Office of Management and Budget, Division of Governmental Coordination, 3601 "C" Street, Suite 370, Anchorage, Alaska 99503-2798, for information on their Public Notice requirements.

If no substantive comments are received, the tentative conditions in the draft permit will become final, and the permit will become effective upon issuance. If comments are received, EPA will address the comments and issue the permit. The permit will become effective 30 days after the issuance date.

Any interested person may appeal the permit in the Federal Court of Appeals, in accordance with Section 509(b)(1) of the Clean Water Act, within 120 days following the Federal Register issuance notice of EPA's final permit decision under 40 CFR § 124.15. Persons affected by a general permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge the permit in the Federal Court of Appeals or apply for an individual NPDES permit and then request formal hearing on the issuance and denial of an individual permit.

**Documents are available for review**

The following documents may be reviewed between 8:30 a.m. and 4:00 p.m., Monday through Friday at EPA Region 10 Library on the 10th floor, Park Place Building, 1200 Sixth Avenue, Seattle, Washington.

- The Draft Permit and Fact Sheet
- The Finding of No Significant Impact (FONSI)

- The Environmental Assessment for the Proposed Pribilof Islands General NPDES Permit (EPA, Jones & Stokes, and Science Applications International Corporation (SAIC)) August 1998
- The Biological Assessment of Seafood Processing Discharges and St. Paul's Domestic Wastewater Discharge on Threatened, Endangered and Special Status Species of the Pribilof Islands, Alaska (EPA, SAIC, and Jones & Stokes) August 1998
- Ocean Discharge Criteria Evaluation for the Proposed Pribilof Islands General NPDES Permit and Addendum for the City of St. Paul Domestic Wastewater Discharge (EPA, Jones & Stokes, and SAIC) August 1998

Copies of these documents are available from Region 10's Public Environmental Resource Center on the 14th Floor, Park Place Building, 1200 Sixth Avenue, Seattle, Washington, Telephone 800-424-4EPA (4372) (within Region 10 only) or (206) 553-1200 or request copies by e-mail to "philip.jeff@epamail.epa.gov".

For other information, contact Florence Carroll, in Seattle at (206) 553-1760 or by e-mail to "carroll.florence@epamail.epa.gov".

The documents listed above may also be reviewed at the following places in Alaska:

USEPA Alaska Operations Office
Federal Building, Room 537
222 West 7th Avenue
Anchorage, Alaska 99513-7588

USEPA Alaska Operations Office
410 Willoughby Avenue, Suite 100
Juneau, Alaska 99801
Telephone: (907) 586-7619

City of St. Paul
City Manager's Office
Telephone: (907) 548-3110

City of St. George
Public Works Office
Telephone: (907) 859-2263

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# 1 THE BASIS FOR A GENERAL NPDES PERMIT

## 1.1 The Basis for Issuance of a General Permit

Section 301(a) of the Clean Water Act (CWA, or the Act) 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. EPA's regulations authorize the issuance of general NPDES permits to categories of discharges when a number of point sources discharges:

- involve the same or substantially similar types of operations;
- discharge the same types of wastes;
- are located within a geographic area;
- require the same effluent limitations;
- require the same 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 [40 CFR § 122.28].

## 1.2 EPA Determination for a General Permit for the Pribilof Islands

EPA has determined that the owners and operators of seafood processing facilities engaged in the processing of seafood, both mobile vessels and shorebased facilities, involve the same or substantially similar types of operations which discharge the similar types of wastes, including seafood processing wastes, treated domestic wastewater, and other designated wastewaters. The city of St. Paul discharges treated domestic wastewater through an outfall shared with a seafood processor. Also vessels discharging through stationary outfalls discharge gray water and on St. George there is a discharge from a bunkhouse/galley package plant treating domestic wastewater. All of the types of wastes and wastewaters discharged within three nautical miles (nmi) of St. Paul and St. George Islands (except for Walrus Island) must comply with effluent limitations, monitoring requirements, and other conditions set forth the Permit.

As provided in 40 CFR §§ 124.8 and 124.56, this Fact Sheet briefly describes the facilities, discharges, and receiving waters covered by the Permit. It also sets forth the principal

facts and the significant factual, legal, methodological, and policy questions considered in preparing the Permit and its requirements.

Coverage under the Permit will expire five years from the date of issuance. An expired general permit continues in force and effect until a new general permit is reissued [40 CFR § 122.28(b)]. Permittees authorized to discharge under the general permit must submit new Notices of Intent [*see* 1.2] 180 days prior to the expiration date of the Permit..

As with individual NPDES permits, a violation of a condition contained in a general NPDES permit constitutes a violation of the Act and may subject the permittee to penalties specified in CWA § 309. Under the Civil Monetary Penalty Inflation Adjustment Rule, the penalty amounts were increased effective January 30, 1997. [*See* FR 61(252): 69359-69366, December 31, 1996].

## 1.3 Coverage under the Pribilof General Permit

A Notice of Intent (NOI) to be covered under the Permit is required [40 CFR § 122.28(b)(2)(i)]. The requirements are outlined in the Permit. A new applicant seeking authorization to discharge under the Permit must submit a timely NOI to EPA at least 60 days prior to the onset of operation and discharge. This time period will allow EPA adequate time to review the NOI, consult with the applicant, the State, and other parties as appropriate, and inform the applicant of EPA's determination.

Permittees previously authorized under the Pribilof Seafood General Permit AK-G52-P000 must submit an NOI for coverage under the reissued Permit no later than 30 days after issuance of this Permit.

## 1.4 Requirements of an individual permit

EPA has determined that the general NPDES permit for seafood processing facilities in the Pribilof Islands will contain the following limitations and requirements for the discharge of pollutants: technology-based effluent limitations of grinding process waste solids to no greater than 0.5 inch in any dimension; water quality-based limitations; a one-half mile no discharge exclusion zone around rookeries and haulouts for marine mammal and nesting areas for seabirds; monitoring of the receiving water, seafloor, shoreline, and biological communities (marine mammals and seabirds) where feasible and appropriate; quarterly reporting of production and location of discharge, monitoring of the effluent discharge; and a pollution prevention plan and implementation of best management practices for reduction and elimination of wastes and waste products.

Individual NPDES permits for dischargers in the Pribilof Islands would require at least the above permit requirements. Individual permits may also require additional water quality-based limitations on effluent quantity and quality which are site-specific, additional

monitoring appropriate to these site-specific conditions, and monthly reporting of production, discharges, and monitoring. In addition, an environmental assessment will be required and an environmental impact statement may be required.

**1.4.1** EPA requirements for a general permittee to apply for an individual permit [40 CFR § 122.28(b)(3)]

EPA may require any discharger 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:

- **!** The discharger or "treatment works treating domestic sewage" is not in compliance with the terms and conditions of the general permit;
- **!** A change has occurred in the availability of demonstrated technology of practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
- **!** Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
- **!** A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
- **!** 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; or
- **!** The discharger is a significant contributor of pollutants.

**1.4.2** Application to discharge under an individual permit [40 CFR § 122.18(b)(3)(iii)]

Owners and operators covered by a general permit may request to be excluded from coverage under the general permit by submitting an application to EPA for an individual permit with reasons supporting the request to be excluded from the general permit. This request may be made by submitting an individual NPDES permit application to EPA. This request shall be submitted no later than 90 days after publication by EPA of the final general permit in the Federal Register, or, if a new discharger, an application must be submitted no later than 180 days prior to the commencement of operation of a new source or new discharger.

## 2 THE BASIS FOR ISSUING THIS PERMIT UNDER THE OCEAN DISCHARGE CRITERIA

The Ocean Discharge Criteria, promulgated at 40 CFR Part 125, Subpart M, in accordance with CWA § 403, establish guidelines for permitting discharges into the territorial seas, the contiguous zone, and the ocean. EPA conducts an Ocean Discharge Criteria Evaluation (ODCE) which applies the criteria to available information and the proposed permit. In conjunction with the ODCE, EPA decides on the basis of available information whether or not the discharge will cause unreasonable degradation of the marine environment. "Unreasonable degradation of the marine environment" means:

> Significant adverse changes in ecosystem diversity, productivity, and stability of the biological community within the area of discharge and surrounding biological communities;
>
> Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms; or
>
> Loss of aesthetic, recreational, scientific, or economic values which is unreasonable in relation to the benefit derived from the discharge.

The Ocean Discharge Criteria are comprised of ten criteria to be considered in the determination of unreasonable degradation. These factors, in general, include the amount and nature of the pollutants, the potential transport of the pollutants, the character and uses of the receiving water and its biological communities, the existence of special aquatic sites (including parks, refuges, etc.), any applicable requirements of an approved Coastal Zone Management Program plan, and potential impacts on water quality, ecological health, and human health [40 CFR § 125.122].

EPA has developed the *Ocean Discharge Criteria Evaluation for the Proposed Pribilof Islands General NPDES Permit* and an *Addendum for the City of St. Paul's Domestic Wastewater Discharge* (Pribilof ODCE 1998) [EPA, Jones & Stokes, and SAIC 1998] to provide more extensive details on these ten criteria as well as certain aspects of the effluent discharges and the waters receiving pollutants. This technical support document provides a significant expansion of this Fact Sheet as to the scientific basis for the Permit.

### 2.1 Summary of the 1997 Monitoring Program

#### **2.1.1** Effluent Characterization

Effluent testing of seafood processing wastes and cleanup wastewaters and domestic wastewater from the city of St. Paul and the bunkhouse/galley on St. George took place during the winter crab processing and during a very limited

summer halibut processing. The city of St. Paul's discharge was tested during both periods.

The sampling and analyses for conventional pollutants, metals, and volatile organic compounds (VOCs) indicate that conventional pollutants are discharged in small quantities; that the metals found in the discharges primarily consisted of those normally found in seawater plus copper and iron which could be leached from pipes; and that VOCs created by the use of chlorine and two manufactured chemicals were present in very small quantities primarily in the domestic wastewater discharges.

**2.1.2** Water Quality

Water quality was sampled and on-site testing of the water column took place when there were discharges during winter crab processing and during limited summer processing and also during domestic wastewater discharges. During both periods the electronic water column measurements showed no significant effect of discharges on dissolved oxygen, pH, salinity, or temperature of receiving waters.

Analytical results showed no significant effect of discharges from seafood processors or the city on any of the water chemistry parameters evaluated during the winter discharges. Biochemical oxygen demand (BOD), ammonia, nitrite-N, settleable matter, total Kjeldahl nitrogen, and total organic carbon were below method detection limits for all stations. Nitrate-N, ortho-phosphorus, and total phosphorus were detected in small concentrations, indicating normal marine environmental conditions.

Ammonia-N was measured in higher concentrations than ambient conditions, but still well below allowable ammonia levels in seawater.

The summer analytical results showed no significant effects of the discharges on any of the water chemistry parameters. Biochemical oxygen demand (BOD), ammonia, nitrite, nitrate, settleable matter, and total organic carbon were below method detection limits for all stations. Total Kjeldahl nitrogen, ortho-phosphorus, and total phosphorus were detected in low concentrations, indicating normal marine environmental conditions.

**2.1.3** Sediment Chemistry and Benthic Community Sampling

The sediment chemistry and benthic community sampling was conducted during the summer in conjunction with a dive survey covering the outfall areas at East Landing and St. George as well as transects where mobile vessels had discharged during previous crab processing periods. Two control sites were also sampled.

No accumulations of wastes were observed. The sediments were well aerated with no accumulation of sulfides or of anaerobic layers. Petroleum hydrocarbons and bacteria--which if present would definitely indicate anthropogenic impacts--were not found in any of the samples.

Benthic samples found that no effects from the discharges were discernible. The strong wave action, currents, temperature extremes, and mechanical damage from sea ice appears to rapidly disperse even large amounts of organic wastes that may be deposited into the nearshore environment and which may have the potential of adversely affecting the biota.

## 2.2 EPA Determination

After consideration of the ten criteria and other factors contained in CWA § 403 and based on the information gathered during the 1997 monitoring program, EPA has determined that discharges authorized by the Permit and discharged in accordance with the requirements of the Permit will not cause unreasonable degradation of the receiving waters.

# 3 THE BASIS FOR A GENERAL PERMIT FOR DISCHARGES OCCURRING WITHIN THREE NAUTICAL MILES OF THE PRIBILOF ISLANDS

## 3.1 Comparison of the 1996 General Permit with the Proposed General Permit

The Pribilof Seafood General Permit issued in 1996 did not authorize discharges within 0.5 nmi of special areas of concern, which in general included rookeries (with the exception the three nmi zone around Walrus Island), haulout areas, and seabird nesting areas during a period of May 1 through December 1.

The currently proposed Permit continues the nonauthorization of discharges within 0.5 nmi of rookeries (with the exception the three nmi zone around Walrus Island), haulout areas, and seabird nesting areas. The safety exception for mobile vessels to anchor within the 0.5 nmi exclusion zone also continues. The existing stationary outfalls at St. Paul and St. George also continue to be covered under this Permit.

In addition, the proposed Permit requires an effluent monitoring program for seafood processing permittees and the city of St. Paul. A biological monitoring program with the objective to observe marine mammals and seabirds interaction with discharges and possible shoreline accumulation has also been included. Pollution prevention and best management practices are also required for the seafood processing permittee and the city of St. Paul is to implement a hazardous household products control and disposal program

### 3.2 New coverage under the reissued Permit

This general permit has been expanded to cover the city of St. Paul's domestic wastewater which is treated by a series of septic tanks before discharge through an outfall shared with a seafood processor into the Bering Sea.

The previous permit, as well as this permit, authorizes the discharge of domestic wastewater from bunkhouse package treatment plant on St. George. Including the city of St. Paul in the proposed Permit is a realistic extension in order to cover all the discharges occurring within three nmi of the Pribilof Islands. The city of St. Paul as well as the bunkhouse/galley on St. George will have monitoring requirements for testing the effluent during the effective period of the Permit. In addition, the city of St. Paul will initiate a hazardous household waste program to reduce and/or eliminate the disposal of hazardous products by means of the septic tank treatment system.

### 3.3 Coverage area

The Permit coverage of three nmi was selected for administrative purposes. The cities of St. Paul and St. George extend their jurisdiction for taxes, ordinances, and other responsibilities to three miles and can provide EPA and ADEC with information on which vessels operate within the three mile area.

## 4 DESIGNATED AREAS OF SPECIAL CONCERN EXCLUDED FROM COVERAGE OF THE PERMIT

### 4.1 National Wildlife Refuge

Waters within 0.5 nmi of the boundary of a national wildlife refuge are excluded from coverage by the Permit. The Pribilof Islands are part of the Alaska Maritime Wildlife Refuge, Bering Sea Unit. The Alaska Maritime Wildlife Refuge may include lands owned and/or managed by the U.S. Fish and Wildlife Service (USFWS).

National wildlife refuges are maintained to protect the environmental integrity and populations of fish and wildlife and their habitats, as well as to provide the scenic beauty and quality of landscapes in the natural state and opportunities for wilderness recreational activities [16 U.S.C .§ 661 *et seq.*].

### 4.2 Steller Sea Lion Critical Habitat: Rookery and Haulout Areas

The National Marine Fisheries Service (NMFS) reclassified the Steller sea lion population west of 144 deg.W. longitude as endangered, effective June 4, 1997, pursuant to the Endangered Species Act [ESA, 16 U.S.C. § 1531 *et seq.*]. Conservation of rookeries,

haulouts, and foraging areas are essential to the maintenance of pinniped populations in general, and to the recovery of the endangered population of Steller sea lions in particular.

### **4.2.1** Rookeries

Waters within three nmi of the baseline or base point of a rookery of the Steller sea lion are excluded from coverage of the Permit on a year-round basis. Walrus Island, approximately 6 miles east of St. Paul Island, has been designated as a major Steller sea lion rookery [FR 58(165): 45269-4586, August 27, 1993].

Rookeries are unique habitats where Steller sea lions mate, birth, and raise their progeny on a consistent annual basis. The surrounding nearshore waters are an integral component of the critical habitats, especially for foraging by post-parturient females and by young animals when developing swimming and hunting behaviors.

### **4.2.2** Haulout Areas

Waters within 0.5 nmi of the baseline or base point of a designated haulout of the Steller sea lion are excluded from coverage of the Permit on a year-round basis. On St. Paul Island, Northeast Point and Sea Lion Rock have been designated as major haulout areas. On St. George, South Rookery and Dalnoi Point have been designated as major haulout areas [FR 58(165): 45269-4586, August 27, 1993].

Haulouts are areas used for rest and refuge by all ages and both sexes of sea lions during the non-breeding season and by non-breeding adults and subadults during the breeding season.

### **4.2.3** Potential Impacts

The Permit does not authorize the discharge of processing wastes from mobile and shorebased dischargers within 0.5 nmi miles of the baseline or base point of Steller sea lion haulout areas in St. Paul and St. George. Some sea lion contact with seafood processing waste may occur during foraging periods and during travel to and from rookeries and haulouts. The discharged effluent is not expected to contain wastes that are toxic or have the potential to bioaccumulate. The discharge could potentially contain processing equipment (e.g., ear plugs, rubber gloves, and rubber packing bands) that could harm foraging animals if ingested; however, the processors are not authorized to discharge such equipment and are required to implement an inspection program to reduce/eliminate the possibility of the discharge of such equipment. Overall impact from the discharge is unlikely to have a direct effect on Steller sea lions [Pribilof OCDE 1998].

Most seafood processing in the Pribilof Islands occurs from January to March and September to December. Sea lion occupation of rookeries during the breeding season is typically limited to the period extending from late May to early July. Potential contact with waste discharges would be reduced during the breeding season [Pribilof OCDE 1998].

The domestic wastewater discharge from the city of St. Paul has the potential to impact the Steller sea lions since the discharge is a year-round occurrence. However, since the discharged wastewaters are quickly diluted in the high energy zone of the Bering Sea, direct effects are unlikely.

Constituents in the domestic wastewater effluent could possibly attach to seafood wastes. If these combined wastes are deposited on the shoreline, there may be direct contact by sea lions. There is no information at this time that organic compounds or pathogens are attaching to the seafood waste or that seafood waste is being deposited onto the shoreline in significant amounts or for long enough periods for marine mammals or seabirds to be exposed to it. EPA and NMFS are discussing possible cooperative efforts to test for organic compounds or pathogens during the effective period of this Permit.

## 4.3 Northern Fur Seal Critical Habitat: Rookeries and Haulout Areas

Historically, the Pribilof Islands were declared a special reserve for the preservation of northern fur seals under the Fur Seal Act of 1910; it was unlawful for any person to even land on these islands. Pursuant to the Fur Seal Act Amendments of 1983, activities on the Pribilof Islands must be consistent with the purposes of conserving, managing, and protecting fur seals and other wildlife [16 U.S.C. § 1161 *et seq.*].

### **4.3.1** Rookeries

Waters within 0.5 nmi of rookeries of the northern fur sea during the period May 1 through December 1 are excluded from coverage by the Permit.

Rookeries of the Pribilof Island northern fur seals are on both St. Paul and St. George Islands. The Pribilof Island stock was declared depleted under the Marine Mammal Protection Act in June 1988. The rookeries in the Pribilof Islands are used by 72% of the world population and 99% of the North American stock of northern fur seals [Biological Assessment 1998].

### **4.3.2** Haulouts

Waters within 0.5 nmi of haulouts of the northern fur sea during the period May 1 through December 1 are excluded from coverage by the Permit.

The majority of adult northern fur seals are found on land between June and October. Rookeries and haulouts are not designated as separate areas on St. Paul and St. George Islands. The rookeries and haulouts are mainly found on the westward shore south of Zapadni Point, on the west and south sides of Reef Point, on the southern shore between Reef Point and Polovina Point, on the northern, eastern, and southern sides of Northeast Point, and Sea Lion Rock.

### **4.3.3** Potential Impacts

Northern fur seals may come into contact with discharged seafood wastes. Due to the differences in timing of the majority of seafood waste discharges (November through March) and the northern fur seal breeding period (June through October), the potential for significant direct effects is limited. In addition, the Permit does not authorize discharges from new shorebased or any mobile processing facilities within 0.5 nmi offshore of land owned and managed by NMFS for the protection of fur seal rookeries and haulout areas during the period extending from May 1 through December 1. Because of the seasonality of the discharges, direct contact with process waste discharges during the breeding period is further reduced [Pribilof OCDE 1998].

Some fur seal contact with seafood processing waste may occur during foraging periods and during travel to and from rookeries during the king crab season in September. The discharged effluent is not expected to contain wastes that are toxic or have the potential to bioaccumulate. The discharge could potentially contain processing equipment (e.g., ear plugs, rubber gloves, and rubber packing bands) that could harm foraging animals if ingested; however, the processors are not authorized to discharge such equipment and are required to implement an inspection program to reduce/eliminate possibility of the discharge of such equipment [Pribilof OCDE 1998].

The domestic wastewater discharge from the city of St. Paul has the potential to impact the fur seals since the discharge is a year-round occurrence. However, since the discharged wastewaters are quickly diluted in the high energy zone of the Bering Sea, direct effects are unlikely.

Constituents in the domestic wastewater effluent could possibly attach to seafood wastes. If these combined wastes are deposited on the shoreline, there may be direct contact by sea lions. There is no information at this time that organic

compounds or pathogens are attaching to the seafood waste or that seafood waste is being deposited onto the shoreline in significant amounts or for long enough periods for marine mammals or seabirds to be exposed to it. EPA and NMFS are discussing possible cooperative efforts to test for organic compounds or pathogens during the effective period of this Permit.

## 4.4 Marine Birds, Shorebirds, and Waterfowl: Nesting Areas and Critical Habitat

Seabirds (e.g., marine birds, shorebirds, and waterfowl) are significant components of the marine ecosystem of the eastern Bering Sea shelf and are highly vulnerable to human impacts. One of the largest seabird colonies in the world is found in the Pribilof Islands, consisting of approximately 2.5 million seabirds belonging to 12 different species [U.S. Fish and Wildlife Service 1988]. The Alaska Maritime Refuge provides protection for approximately 90 percent of the world's red-legged kittiwake population and Alaska's largest murre colony [Pribilof OCDE 1998].

### **4.4.1** Nesting Areas

Most seabirds return to breeding colonies in April and lay eggs in May, June, and July. While seabirds are rearing young, foraging is limited to nearshore waters. Most seabirds leave their breeding colonies by October. Many of the marine birds nest in the Pribilof Islands wherever there are suitable sites, usually cliffs. Shorebirds are generally restricted to shoreline margins (bays, beaches, lagoons, and mudflats) and are primarily migratory using the coastal areas for feeding, resting, and breeding grounds. Waterfowl include ducks and geese, and during the fall migration, the numbers of ducks increase dramatically as local populations are supplemented by ducks from the north and west. Most diving ducks arrive on their breeding grounds by late May, with the nesting period generally extending through June, with brood rearing and molting occurring during July and August. The majority of the diving ducks are residents of Alaskan coastal areas in winter [Pribilof OCDE 1998].

### **4.4.2** Habitat Areas

Important habitats for marine birds, shorebirds, and waterfowl include nearshore waters, lagoons (e.g., Salt Lagoon), beaches, and rocky cliffs that serve as feeding and breeding areas. Critical habitat for nesting seabirds has been purchased by the U.S. Fish and Wildlife Service along the western shore of St. Paul Island, along much of the shoreline of St. George Island and Otter and Walrus Islands and have been incorporated into the Alaska Maritime National Wildlife Refuge [Pribilof OCDE 1998].

### **4.4.3** Potential Impacts

Any potential impacts of seafood processing and related activities may be minimized for species who do not breed in the Pribilof Islands. For seabird species that breed in the Pribilof Islands and are present during processing periods, the conditions in the permit are designed to limit the potential for direct contact, such as not allowing floating wastes or wastes on the shoreline which could attract seabirds. Discharges from the stationary outfalls, including processing wastes, domestic wastewater, and cleaning solutions, may expose species that prefer nearshore marine waters to those kinds of wastes. The discharges are not, however, expected to contain pollutants at toxic levels or to result in adverse effects.

Scientific literature has considered the impacts of seafood wastes discharges on the food supply, food web, community composition, and interspecies dynamics of

seabirds. Seafood wastes as well as offal and garbage favor the expansion of large, opportunistic birds, such as gulls, to the detriment of smaller seabirds and their nestlings (EPA Fact Sheet 1994].

The domestic wastewater discharge from the city of St. Paul has a small potential to impact the seabirds since the discharge is a year-round occurrence. However, since the discharged wastewaters are quickly diluted in the high energy zone of the Bering Sea, direct effects are unlikely. Also the seabirds would most likely to be attracted to seafood wastes solids being discharged rather than to the domestic wastewater discharge.

Constituents in the domestic wastewater effluent could possibly attach to seafood wastes. If these combined wastes are deposited on the shoreline, there may be direct contact by sea lions. There is no information at this time that organic compounds or pathogens are attaching to the seafood waste or that seafood waste is being deposited onto the shoreline in significant amounts or for long enough periods for marine mammals or seabirds to be exposed to it. EPA and NMFS are discussing possible cooperative efforts to test for organic compounds or pathogens during the effective period of this Permit.

## 5 The Basis for the Exclusions from Coverage of the Permit

### 5.1 Ocean Discharge Criteria

Under the requirements of the Ocean Discharge Criteria for preventing unreasonable degradation of ocean waters [CWA § 403], EPA must give due consideration to various

criteria [40 CFR § 125.122] in deciding whether to issue a permit such as the following:

> The composition and vulnerability of the biological communities which may be exposed to . . . 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, or the presence of those species critical to the structure of function of the ecosystem, such as those important for the food chain;
>
> 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;
>
> and
>
> The existence of special aquatic sites including, but not limited to, marine sanctuaries and refuges, parks national and historic monuments, national seashores, wilderness, and coral reefs[.]

The ODCE concludes that direct effects of the discharge of seafood processing solids and wastewaters and domestic wastewaters on the marine environment do not contain toxic pollutants that may bioaccumulate in aquatic organisms and therefore do not pose a long-term threat to the health of aquatic organisms or humans.

Solid wastes have not been observed to accumulate and persist in the vicinity of seafood processing waste discharges from either the stationary outfalls or mobile vessels.

Disinfectants used during seafood processing cleanup are potentially toxic constituents that will be discharged from seafood processing facilities. Hazardous household products are also potentially toxic constituents that are discharged from domestic wastewater sources through the stationary outfalls. However, it is expected that the concentration of disinfectants and hazardous household products will be reduced due to dilution with other wastewater prior to discharge and that these constituents will not be present at toxic concentrations following discharge. In addition, all seafood processing permittees covered under the Permit will be required to use best management practices to prevent pollutants from entering the environment. The city of St. Paul will be required to investigate and reduce or eliminate hazardous household products used in the community.

## 5.2 **Endangered Species Act** [16 U.S.C. § 1531 *et al.*]

The Endangered Species Act (ESA) and its implementing regulations [50 CFR Part 402] require EPA to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of

any endangered or threatened species or adversely affect any critical habitat [40 CFR § 122.49(c)].

A list of endangered and threatened species and species of concern in the Pribilof Islands was requested and provided to EPA by NMFS and USFWS. EPA prepared a biological assessment because of the listings of several species.

EPA will submit to NMFS and USFWS, for their respective concurrences, the prepared Biological Assessment (BA) and the draft Permit. Based on the BA, EPA has determined that this Permit is not likely to adversely affect the listed species. The protection measures in the Permit for the species of concern prohibit alterations of limited, high quality habitat occupied and utilized during mating, birthing, and raising young from the discharges of pollutants by seafood processing and domestic wastewater discharges. EPA has further concluded that the discharges authorized by the Permit are not likely to have a direct effect on any endangered or threatened species or their critical habitat.

**5.3. Marine Mammal Protection Act** [16 U.S.C. § 1361 *et seq*.]

Section 2 of the Marine Mammal Protection Act (MMPA) states 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 ground, and areas of similar significance for each species of marine mammal from the adverse effect of human actions.

**5.4 EPA Determination**

EPA concludes that, based on the Ocean Discharge Criteria Evaluation and the responsibilities and obligations EPA has to comply with the ESA and MMPA, the 0.5 nmi exclusion zones around the rookeries and haulouts of northern fur seals, seabird nesting areas, and the Alaska Maritime Wildlife Refuge are responsive to the concerns of endangered, threatened, and depleted species.

The 0.5 nmi year-round critical habitat for Steller sea lions is regulated in FR 58(165): 45269-4586, August 27, 1993, where it states that designated haulout areas have a 3000 ft protective zone landward, overhead, and seaward. Even though the requirements do not refer to the discharge of wastes and wastewaters from any sources, these waters are state and federally managed to protect the Steller sea lions.

The 0.5 nmi zone is excluded for discharges from seafood processing (except for the existing stationary outfalls) beginning May 1 and ending September 30 for critical habitat

and nesting areas for seabirds and beginning May 1 and ending December 1 for rookeries and haulouts for fur seals because that is when the seals and seabirds are most likely to be present.

While there is no regulatory or other published basis for or against the 0.5 nmi exclusion zone related to seabirds and fur seals for discharges from other sources than the stationary outfalls, EPA considers the exclusion zone for these species to be consistent with the need to protect the receiving waters important to biological resources and consistent with EPA's obligation to evaluate necessary measures to take in order to not adversely affect endangered, threatened, or depleted species by EPA's permit actions.

# 6 THE BASIS FOR LIMITATIONS AND MONITORING REQUIREMENTS

## 6.1 Limitations

### 6.1.1 Technology-based Limitations

In accordance with the designation of Alaskan seafood processors (except those in Petersburg, Cordova, Anchorage, Juneau, Ketchikan, and Kodiak) as "remote," the Permit requires the least stringent technology-based effluent limitations in the U.S. seafood processing industry. These technology-based limitations require that process waste solids shall be ground to no greater than 0.5 inches in any dimension prior to discharge. No additional technology-based treatment is required of process wastewaters. The grind and discharge effluent limitation appears to be appropriate for the treatment of seafood wastes in the Pribilof Islands.

### 6.1.2 Water Quality-Based Limitations

Water quality-based limitations require site-specific analyses of the dispersive and assimilative capacities of a particular receiving water for particular quantity and quality of a pollutant. Adequate dilution is important to the success of a general NPDES permit in ensuring water quality and protecting the environment in receiving waters. Dilution depends upon the physical and hydrodynamic characteristics of a receiving water.

As part of water quality-based limitations, there is to be no accumulation of seafood processing wastes on the seafloor, no accumulation of seafood wastes on the shoreline, or floating solids, film, or sheens on the sea surface.

To date, the discharge of ground processing wastes has not resulted in any persistent accumulated residues at the terminus of the stationary outfalls, most likely due to extremely active hydrodynamic conditions near the outfalls. Although

oceanographic studies have focused on many physical aspects of the Bering Sea, limited studies have been conducted on the nearshore coastal waters of the Pribilof Islands. However, a recent study suggest the presence of a hydrographic front around St. Paul and St. George Islands [Stabeno and Schumacker 1997].

The Stabeno and Schumacher 1997 study, even though very limited, found that the discharges from the stationary outfalls at East Landing are taken by the tidal currents in a clockwise direction southwest around Reef Point and then north-northeast from the coast of St. Paul Island. Current observations show that the flow around the island decreases in strength with distance away from shore. There are also occurrences of current reversals caused by strong wind events. At St. George Island a similar flow was demonstrated and suggests a connection exists between the two islands.

At various times crab wastes have been observed on the shoreline at East Landing. These occurrences usually were reportedly a result of broken outfalls or winds blowing on-shore of ground crab wastes from the outfall discharges as well as larger pieces of the crab carapaces, possibly resulting from crab fishing boats dumping dead loss overboard. At St. George there was a reported occurrence of crab waste during the processing season of 1997 when strong winds were from the West. In all cases, the crab wastes were either collected and disposed of or subsequent tidal action cleared the wastes from the shorelines.

Specific water quality-based limitations for seafood processing or domestic wastewater discharges are not included in the Permit since no pollutants of concern were detected in the sampling and testing in quantities to cause significant impact on the marine environment. Pollutants are discharged in quantities unlikely to be toxic or have the potential to bioaccumulate. Narrative water quality requirements include seafloor, sea surface, and shoreline monitoring programs. The State will be requested to certify that the requirements of the Permit meet water quality standards.

## 6.2 Monitoring Requirements

### **6.2.1** Effluent Monitoring

- **!** During the effective period of the Permit, shorebased processors discharging through the stationary outfalls on St. Paul and St. George will be required to participate in an effluent monitoring program by sampling their effluent as follows:

Conventional pollutants -- Four times during each winter crab processing season and one time during the summer halibut season in the third year of the Permit;

Metals, Mercury, and Volatile Organic Compounds -- one time during the winter crab season in the third year of the Permit.

- During the effective period of the Permit, mobile processing vessels discharging within three nmi miles of the Pribilof Islands will be required to participate in an effluent monitoring program by testing their effluent as follows:

  Conventional pollutants -- One time during each winter crab processing season;

  Metals, Mercury, and Volatile Organic Compounds -- one time during the winter crab season in the third year of the Permit.

- Water quality, sediment chemistry, and benthic monitoring will only be required if there is a significant change in the character of the effluent being discharged or if there is an accumulation of seafloor wastes.

A waiver to the above effluent monitoring program for mobile vessels may be approved temporarily on a case-by-case basis when getting samples off the vessel is not possible due to inclement and dangerous weather. The permittee is to notify EPA if such hazardous conditions occur. The notification should also give a tentative schedule for when the sampling can be done.

Conventional pollutants consist of BOD, TSS, oil and grease, total phosphorous, total residual chlorine, temperature, pH, chemical oxygen demand, total organic carbon, and ammonia-N. In addition, flow measurements will be required to determine the mass loadings. Sources of domestic wastewater will also test for fecal coliform bacteria but not for total residual chlorine. Metals, including mercury, and VOCs will be tested.

If there is a significant change in the effluent from any tested source that causes concern, EPA and ADEC may determine that additional sampling and testing is necessary to protect the marine environment.

Sampling and testing has taken place during only one winter crab processing season and one summer halibut processing season. This one set of data has

provided baseline information concerning the effluent characterization; however, an on-going confirmation of the discharges needs to be carried out to protect the marine environment from the potential impact of pollutants.

**6.2.2** Discharge Monitoring

- Each processor will be required to verify daily that wastes are being ground to 0.5 inch or less prior to discharge and to record each inspection of this observation and report any occurrences in the quarterly report that indicate that the grinder(s) is/are not grinding to 0.5 inch or less.

- Each processor will be required to implement and record a daily visual inspection of the sump or other place of observation for, and removal of, gloves, earplugs, rubber packing bands, or other equipment used in processing seafood that may find its way into the discharge stream. Permittees are to report any occurrences on the quarterly report.

**6.2.3** Seafloor Monitoring

Shorebased facilities on St. Paul and St. George will be required to conduct an inspection of the condition and integrity of the outfall lines during the second and fourth years of the Permit. While making these inspections, the divers will make note of any seafloor waste accumulations observed during the inspection. Permittees must report any accumulations to EPA and ADEC who may require a more extensive seafloor survey. Mobile vessels will not be required to conduct a seafloor survey since previous surveys have shown that there are no accumulations in the areas where the floating processors had been processing and discharging.

**6.2.4** Sea Surface and Shoreline Monitoring

The sea surface and shoreline monitoring program is to provide daily assessments of the conditions of the shoreline and sea surface during periods of operation and discharge. Visual observation is the method for doing these assessments. In addition to inspecting for seafood wastes, permittees will be required to also report any occurrences of processing equipment found on the shoreline. Any occurrences of seafood wastes or processing equipment will be recorded in daily logs and reported to EPA and ADEC as outlined in the noncompliance reporting section of the Permit.

**6.2.5** Biological Monitoring

Biological monitoring, for the purposes of this Permit, is defined as observations of the marine mammals and seabirds and their interaction with discharges from the

stationary outfalls or from mobile vessels which cause floating wastes on the surface of the water or on the shoreline.

The observers, permittees or members of the community, will use the following questions as a guide to developing a program for reporting observations: whether or not seabirds and marine mammals are attracted to the outfalls and are seen eating the wastes being discharged; whether or not seabirds and marine mammals are attracted to any waste accumulations on the shoreline and are feeding on the wastes, getting wastes on their feathers or fur; whether or not the interaction with discharge plumes causes seabirds or marine mammals to accumulate oils on their feathers or fur; whether or not the discharge is attracting gulls that are not usually found in the Pribilof Islands; identification of the types of marine mammals or seabirds, how many, when, where, behavior; and what were the weather conditions, wind direction, tides, or other pertinent information.

This type of observation should be done in conjunction with the shoreline and sea surface monitoring program, including the safety provisions. Any observations of sea lions, fur seals, or seabirds near the outfalls, mobile vessels, or shorelines will be submitted with the quarterly reports. Video tapes and photographs are good methods of recording the biological monitoring.

# 7 POLLUTANTS ALLOWED TO BE DISCHARGED

## 7.1 Discharges Covered by the Permit

### **7.1.1** Seafood Processing Wastes and Wastewaters

Discharges from seafood processing facilities are classed as solid wastes or wastewaters. Solid wastes consist primarily of unused portions of fish and shellfish that have been processed. The unused portions of processed raw fish and shellfish can include heads, skin, scales, viscera, fins, and shells discarded during cleaning and butchering operations. Wastewaters include water and disinfectants used to maintain sanitary conditions in compliance with requirements for the production of food for human consumption.

Major pollutants include TSS (including certain “residues” under the Alaska State Water Quality Standards), BOD, non-petroleum oil and grease, and nutrients. These process waste and wastewater pollutants result from the butchering of seafood and, along with color, turbidity, pH, and temperature, may differ from the constituency of the receiving waters.

### **7.1.2** Processing Disinfectants

Processing disinfectants are authorized for discharge under the Permit. Sodium hypochlorite and ammonium chloride are the primary disinfectants used in the control of microbial contamination of seafood processing equipment and containers. As a result of the periodic use of these disinfectants used to sanitize equipment, free chorine may be present in residual amounts. During the winter 1997 monitoring, the effluent of nine facilities was tested using a HACH model CN-66 Colorimeter. The results show that total chlorine residual was present in amounts from nondetect to 0.79 mg/L (the higher number was from a cleanup discharge). While disinfectants are potentially toxic constituents, the concentration of disinfectants will be reduced due to dilution with other wastewaters prior to discharge and in the receiving waters, and will not be present at toxic concentrations following discharge.

### **7.1.3** Gray Water and Domestic Wastewater

Gray water (including showers, baths, laundries, sinks, kitchens, galleys, or other domestic sources which do not contain human body wastes or urine) from mobile vessels or vessels discharging through the stationary outfalls, may be discharged without treatment. Sanitary wastes (human body wastes from toilets, urinals) must be treated appropriately via approved marine sanitation devices, the package treatment plant (bunkhouse/galley on St. George), or the city of St. Paul's septic tank treatment system.

Mobile vessel permittees will be asked to provide more information about their marine sanitation devices (MSDs): when certified, type, capacity, certification levels of TSS and fecal coliform bacteria. Discharge from MSDs is prohibited in U.S. territorial waters (within the three mile limit).

The city of St. Paul collects domestic wastewater which is treated in a series of septic tanks before discharge through a stationary outfall. The city's discharge has been sampled and tested three times. The results indicate that the septic tanks are removing substantially all floating and settleable solids prior to discharge.

The city is required to develop and implement a household/community hazardous product information program to reduce and eliminate the use of hazardous products which most likely are the source of the two chemicals found in previous VOC sampling--toluene and 1,4-dichlorobenzene--as well as other potentially hazardous materials. After the city has implemented the hazardous product program, testing for VOCs will be required during the third year of the Permit.

Previous testing results of VOCs detected two manufactured chemicals, toluene and 1,4-dichlorobenzene, were present during the sampling. The six toluene samples taken during the three monitoring periods ranged from 0.00258 mg/L to 0.242 mg/L and the five samples tested for 1,4-dichlorobenzene ranged from 0.00115 mg/L to 0.024 mg/L. The city will sample East Landing for VOCs during the third year of the permit and if the VOC sample shows toluene in excess of 0.09 mg/L and 1,4-dichlorobenzene in excess of 0.011 mg/L, the city will be required to sample at the lift stations and to resample at East Landing to try to find the source(s) of these two chemicals.

State of Alaska regulations [18 AAC 72.040} allow ADEC to modify the minimum treatment requirements from secondary to primary for domestic wastewater discharge to marine water upon approval of the design and construction of the system. The city of St. Paul presumedly received this waiver when the State approved the design of the system to be constructed in 1988. The waiver allowed a "primary" treatment system which substantially removes all floating and settleable solids before discharge. Through the permit certification (CWA § 401) process, ADEC will need to grant the continuing waiver from secondary treatment.

The city of St. Paul has requested ADEC to issue a mixing zone for fecal coliform bacteria in order to comply with state water quality standards.

**7.1.4**. Other Wastewaters

Other wastewaters, including cooling water, boiler water, freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to the facility, and live tank water, are authorized for discharge without treatment under the Permit.

## 7.2 Discharges not Authorized by the Permit

The Permit does not authorize discharge of any pollutants which are not specified as allowable under the Permit. This includes, but is not limited to, petroleum hydrocarbons and toxic pollutants listed in 40 CFR § 401.15. Vessels must comply with 33 CFR Part 151 ("Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial wastes, and ballast water").

Discharge of wastes and wastewaters from the production of surimi and/or fish paste products that are washed repeatedly in water then pressed to remove residual waste; from the processing fillets from pollock, cod, or any type of finfish; or from the processing of seafood wastes into fish or bone meal are not authorized under this Permit.

# 8 SPECIAL CONDITIONS

## 8.1 Vessel Location Reporting

Processing vessels are not authorized to discharge within three nmi of Walrus Island and 0.5 nmi of major designated haulout areas of the Steller sea lion and the Alaska Maritime Wildlife Refuge. In addition, vessels are not authorized to discharge within 0.5 nmi of northern fur seal rookeries and haulouts during the period of May 1 to December 1 and bird nesting areas and critical habitats during the period of May 1 through September 30.

Processing vessels may anchor within the 0.5 nmi mile exclusion zone when conditions exist that would threaten the safety of the vessel or there is no other location available for safety considerations. As required by the Permit, vessels must notify EPA and the city of St. Paul or the city of St. George, and the respective harbor masters when entering into the exclusion zone

## 8.2 Existing Stationary Outfalls

Discharges for the currently existing stationary outfalls, previously permitted under the 1989 General NPDES Permit for Seafood Processors in Alaska, will be allowed to continue provided there is no evidence of wastes on the sea surface or shoreline or accumulated on the seafloor, the facilities comply with the shoreline and sea surface and seafloor monitoring program, and results from effluent testing do not indicate a significant change in the characterization of the discharge or any other indication that the discharge is adversely affecting the marine environment.

## 8.3 Ocean Disposal

Halibut and crab wastes ground to 0.5 inch and unground snail shells may be disposed of by dumping the wastes into depths of at least 45-50 fathoms and at least seven nmi west of St. Paul and at least three nmi west of St. George. Permittees must keep a log to be submitted with the quarterly report of the disposal operations.

## 8.4 Discharge Outfall location and Condition

### **8.4.1** Stationary Outfall Depth

Facilities or vessels shall discharge seafood processing wastes through stationary outfalls that are at least 15 feet below the sea surface at MLLW.

**8.4.2** Mobile Vessels

Vessels shall discharge seafood processing wastes at least three feet below the sea surface at MLLW (except for mobile vessels that have through-the-hull discharge points).

**8.4.3** Outfalls

There shall be no discharge if the outfall line is severed, fails, leaks, or is displaced from the design specifications or location.

## 8.5 New Facilities

Any new applicants wishing to establish a processing facility on St. Paul or St. George or to process within three nmi of the Pribilof Islands must meet the requirement of no discharge with 0.5 nmi mile of the Steller sea lion haulouts and Alaska Maritime Wildlife Refuge year round; the northern fur seal rookeries and haulouts during the period of May 1 to December 1; and bird nesting areas and habitats during the period of May 1 through September 30.

New applicants must submit an NOI 60 days prior to beginning operations in the Pribilof Islands. The applicant must receive a letter of authorization before discharging within three nmi of the Pribilof Islands. Discharges of wastes and wastewaters from the production of surimi and/or fish paste products that are washed repeatedly in water then pressed to remove residual wastes; from the processing of fillets from pollock or any type of cod; and from the processing of seafood wastes into fish or bone meal cannot be covered by the Pribilof general permit and the applicant must apply for an individual permit.

## 8.6 Pollution Prevention and Best Management Practices

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.*].

Permittees shall discharge from the facility or vessel in accordance with best management practices which address the provisions of the Pollution Prevention Act. Best Management Practices (BMPs) are to control or abate the discharge of pollutants in accordance with 40 CFR § 122.44(k). In-plant management of water and materials has

been found to be central in waste management efforts. Materials accounting, audits of in-plant utilization of water and materials, and best management practices are recommended as the profitable approach to waste management in seafood processing plants. The Permit requires the development and implementation of BMPs which prevent or minimize the generation and release of pollutants to receiving waters. Mobile vessels operating and discharging more than 0.5 nmi from shore can implement BMPs which minimize process waste solids and disperse process wastes through mobility. Shorebased facilities can implement BMPs which focus upon the minimization of process waste solids.

BMPs, however, need to go beyond the reduction of seafood processing wastes. The use of disinfectants and other products on-board a vessel or at a shorebased facility should be reviewed for optimum use without over-disinfecting or over-use, and the disposal of such products and their containers should be considered a priority under the BMPs and pollution prevention program. Seafood processors are required to implement a pest (e.g., rat) control program under local, state, and federal rules; that same program shall become part of the BMPs. Good housekeeping, use of "green" products, low phosphate detergents, grease traps in galleys, and employee training (e.g., keeping gloves, ear plugs, rubber packing bands, and other processing equipment out of the discharge) will provide the permittees with a means to prevent unwanted pollution and a discharge that may not be in compliance with Permit requirements and/or Alaska State Water Quality Standards.

### 8.7 State Water Quality Standards

All discharges shall be in compliance with Alaska Water Quality Standards [18 Alaska Administrative Code Part 70]

## 9 REPORTING

### 9.1 Quarterly Reporting

Permittees shall report on a quarterly basis: reports are due by the end of the month following any calendar quarter processing occurs in the Pribilof Islands and authorized by this Permit.

The quarterly report will include location of vessels processing within three nmi of the Pribilof Islands, both by GPS and landmarks or a map showing locations; all seafood processors shall report processing data, observations of shoreline, sea surface, biological monitoring, processing equipment, and grinding size inspections.

### 9.2 Non-Compliance Reporting

The following occurrence shall be reported by telephone to EPA and ADEC within 24 hours from the time the permittee becomes aware of the circumstances: endangerment to

human health or the environmental; unanticipated bypass; an upset; persistent environmental effects, including processing wastes on the shoreline or floating scum or solids on the receiving waters; and any problems with the outfalls, including breakage or dislocation.. All other instances of noncompliance shall be reported with the quarterly report, including finding processing equipment in the discharge or on the shoreline, observations of seabirds, fur seals, and sea lions interacting with discharges. Written reports will required on a case-by-case basis when wastes on the shoreline are reported or when breakages or other problems with the outfalls are reported.

## 10 OTHER REQUIREMENTS WHEN ISSUING A PERMIT

### 10.1 Coastal Zone Management Act [16 U.S.C. § 1451 *et seq*.]

The Coastal Zone Management Act and its implementing regulations [15 CFR Part 930] prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until EPA applies for certification that the proposed activity complies with the State Coastal Zone Management Program, and the State or its designated agency issues a determination that the Permit complies with the State Coastal Zone Management Program. EPA will submit the proposed permit to the State of Alaska, Office of the Governor, Division of Governmental Coordination, to ensure that the Permit complies with this requirement.

### 10.2 State Certification of the Permit

Section 301(b)(1)(C) of the Clean Water Act requires that an NPDES permit contain conditions which ensure compliance with applicable State water quality standards or limitations. Section 401 of the Act requires that states certify that federally issued permits are in compliance with state law. No permits can be issued until the requirements of CWA § 401 are satisfied. EPA is requesting ADEC to review and provide appropriate certification to the draft general NPDES permit for the Pribilof Islands, pursuant to 40 CFR § 124.53.

### 10.3 Presidential Oversight of Federal Regulations [Executive Order 12866]

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 providing for presidential oversight of the regulatory process pursuant to Section 6 of that order.

### 10.4 Paperwork Reduction Act [44 U.S.C. § 3501 *et seq*.]

EPA has reviewed the requirements imposed on regulated facilities in the Permit under the Paperwork Reduction Act. Most of the information collection requirements have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program.

## 10.5 The Regulatory Flexibility Act [5 U.S.C. § 553 *et seq*.]

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, a Federal agency must prepare an initial regulatory flexibility analysis "for any proposed rule" for which the agency "is required by section 553 of [the Administrative Procedure Act (APA)], or any other law, to publish general notice of proposed rulemaking." The RFA exempts from this requirement any rule that the issuing agency certifies "will not, if promulgated, have a significant economic impact on a substantial number of small entities." EPA has concluded that NPDES general permits are permits under the APA and thus not subject to APA rulemaking requirements or the RFA. Notwithstanding that general permits are not subject to the RFA, EPA has determined that this general permit, if issued, will not have a significant economic impact on a substantial number of small entities.

# 11 DEFINITIONS and ACRONYMS

***AAC*** means Alaska Administrative Code.

***ADEC*** means Alaska Department of Environmental Conservation.

***Bypass*** means the intentional diversion of waste streams from any portion of a treatment facility.

***CFR*** means the Code of Federal Regulations.

***Coastal zone*** means the waters within three nautical miles of the Pribilof Islands.

***Cooling water*** means once-through non-contact cooling water.

***CWA*** means the Clean Water Act.

***Discharge of a pollutant*** means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source".

***Domestic wastewater*** means water borne human waste or gray water.

***EPA*** means the United States Environmental Protection Agency.

***Exclusion zone*** means within one-half nmi of areas of special concerns or in the cases of Steller sea lion rookeries, 3 nmi.

***GPS*** means Global Positioning System.

***Gray water*** means materials discharged from sinks, safety showers, eye-wash stations, hand-washing stations, galley, laundries, bath, and shower wastewater which do not contain human body wastes.

***Irreparable harm*** means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

***Marine environment*** means that territorial seas, the contiguous zone and the oceans.

***Marine sanitation device*** includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, or any process to treat such sewage.

***MLLW*** means mean lower low water.

***MSD*** means marine sanitation device.

***NMFS*** means United States National Marine Fisheries Service.

***NOI*** means a "Notice of Intent," that is, an application, to be authorized to discharge under a general NPDES permit.

***Pollutant*** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

***Seafood*** means the raw material, including freshwater and saltwater fish and shellfish, to be processed, in the form in which it is received at the processing plant.

***Seafood process waste*** means the waste fluids, organs, flesh, bones, woody fiber and chitinous shells produced in the conversion of aquatic animals and plants from a raw form to a marketable form.

***Severe property damage*** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

***Sewage*** means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

***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 esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

***Upset*** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

***U.S.C.*** means United States Code.

***USFWS*** means United States Fish and Wildlife Service.

***Water depth*** means the depth of the water between the surface and the seafloor as measured at mean lower low water (0.0).

## 12 REFERENCE

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