



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
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OFFICE OF  
WATER AND WATERSHEDS

## **FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

To all interested government agencies, public groups, and individuals:

In accordance with the U.S. Environmental Protection Agency (EPA) procedures for complying with the National Environmental Policy Act (NEPA) at 40 CFR Part 6, EPA has completed an environmental review of the following proposed action:

### **Issuance of the National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Seafood Processors in Alaska (AK-G52-4000)**

#### **EPA ROLE AND RESPONSIBILITY**

The NPDES General Permit for Offshore Seafood Processors will authorize discharges from offshore seafood processors in Federal Waters off the State of Alaska (*i.e.*, waters that are more than 3 miles from the shore or baseline). These offshore seafood processors are considered new sources. “New sources” are those processors whose activities occur after the effective date of the New Source Performance Standards (NSPS). The seafood processing industry is regulated under 40 CFR Part 408 of the Effluent Guidelines Program. EPA promulgated technology-based effluent limitations, NSPS and guidelines for the catfish, crab, shrimp and tuna segments of the industry in 1974 and the fish meal, bottom fish, clam, oyster, sardine, scallops, salmon, herring and abalone segments of the industry in 1975 (40 CFR Part 408). The NSPS for Alaskan seafood processors are based on the same treatment technology as the best practicable control technology currently available (BPT) and best conventional pollutant control technology (BCT). As a “new source” NPDES permit, the General NPDES Permit for Offshore Seafood Processors in Alaska is subject to NEPA review.

Pursuant to the requirements of NEPA, EPA developed an Environmental Assessment (EA) evaluating the potential impacts of the NPDES permit action. Based on the findings of the EA, EPA concluded a Finding of No Significant Impact (FONSI), which is hereby issued pursuant to the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.13 and EPA’s NEPA implementing regulations at 40 CFR Part 6.206.

#### **BACKGROUND**

Section 301(a) of the Clean Water Act (CWA) provides that the discharge of pollutants to surface waters of the United States is prohibited except in accordance with a NPDES permit.

EPA's regulations authorize the issuance of general NPDES permits, as opposed to individual NPDES permits, to categories of discharges when a number of point source 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
- In the opinion of EPA, are more appropriately controlled under a general permit than under individual permits (40 CFR 122.28)

In July 2001, EPA issued the NPDES General Permit for seafood processors in Alaska (AK-G52-0000). The permit allowed seafood processors to discharge seafood processing wastes (e.g., waste fluids, heads, organs, flesh, fins etc.) to waters of the United States in accordance with the effluent limitations, monitoring requirements and other conditions specified in the permit. The permit covered all seafood processors, regardless of their distance from shore.

NPDES permits are written for a term of five years after which the permit conditions are reviewed and a permit is reissued subject to any applicable regulatory changes, changes to water quality standards or changes deemed acceptable by EPA. The 2001 Seafood General Permit (AK-G52-0000) expired on July 27, 2006, and has been administratively extended.

On September 25, 2008, EPA issued the draft NPDES General Permit for Offshore Seafood Processors in Alaska (hereby referred to as "offshore general permit") for public review and comment. The draft offshore general permit proposed to authorize the discharge of treated seafood processing wastes from new and existing facilities to State and Federal Waters, at least 0.5 nautical miles (NM) from shore as delineated by mean lower low water.

Pursuant to Section 402(b) of the CWA, on October 31, 2008, EPA approved the Alaska Department of Environmental Conservation's (ADEC) application to administer and enforce the NPDES program in Alaska. The transfer of NPDES authority from EPA to ADEC will take place in four phases over three years. The four phases represent different sectors and industries that ADEC will regulate discharges of pollutants into waters of the United States under its jurisdiction. The first phase granted ADEC authority to issue NPDES permits for the timber harvesting and seafood processing industries as well as domestic wastewater discharges. As such, ADEC became the permitting authority for the seafood processing industry on October 31, 2008.

After transfer of NPDES program authority, ADEC and EPA originally planned on jointly-issuing the offshore general permit. EPA would be the permitting authority for those discharges occurring in Federal waters (*i.e.*, >3 NM from shore) and ADEC would be the permitting authority for those discharges occurring in State waters (*i.e.*, <3 NM from shore). Since the permit was public noticed, ADEC has decided that rather than jointly-issue the offshore general permit with EPA, they intend on issuing one or more separate NPDES general permits for Seafood processors discharging in State waters.

Since EPA is the permitting authority over discharges occurring in Federal waters (i.e., > 3 NM from the shore/baseline), the offshore general permit will now only cover those facilities discharging to Federal waters off the coast of Alaska. “At-sea dischargers” will not be covered under the offshore permit as EPA has determined that these types of discharges are regulated under the Ocean Dumping Act. As the original proposed action included the discharge of seafood processing wastes into Federal waters, and the environmental impacts of such a discharge was analyzed in the Environmental Assessment (EA), EPA considers the analysis and conclusions of the EA and Preliminary FONSI still valid. Therefore, no revisions have been made to the EA.

## **PURPOSE AND NEED OF ACTION**

The purpose of the proposed action is to issue an NPDES General Permit for offshore seafood processors discharging treated seafood processing wastes into Federal waters off the coast of Alaska. The offshore general permit would allow offshore seafood processors (*i.e.* operating at least 3 NM from shore/baseline) to discharge seafood processing wastes into waters of the United States in accordance with the effluent limitations, monitoring requirements and other conditions set forth in the permit. The attached EA analyzes the potential environmental impacts associated with EPA’s proposed issuance of the offshore permit.

## **AGENCY PREFERRED ALTERNATIVE**

EPA’s Preferred Alternative, **Alternative 1: Proposed Action**, involves the issuance of a NPDES General Permit for seafood processors in Alaska operating at least 3 NM from the shore/baseline. A summary of the permit conditions and provisions are discussed below. A complete description of the effluent limitations, monitoring requirements and other permit conditions can be found in the attached EA or the final NPDES permit.

### **Authorized Facilities**

1. Operators of offshore vessels, operating and discharging “seafood processing waste” greater than 3 NM from shore as delineated by mean lower low water (MLLW), engaged in the processing of fresh, frozen, canned, smoked, salted or pickled seafood or the processing of seafood mince, paste, meal, and other secondary products.

### **Authorized Discharges/Pollutants**

The permit authorizes the discharge of the following pollutants subject to the limitations and conditions set forth therein:

1. Seafood processing 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.
  - a) Treatment of waste solids. Permittees must grind solid seafood processing wastes to 0.5-inch or smaller in any dimension 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.

Permittees must discharge effluents into hydrodynamically energetic waters with a high capacity of dilution and dispersion.

Total pounds of by-catch and prohibited species discharged, per day, and daily location must be reported in the Annual Discharge Report per VI.B.2.f of this permit.

2. Wash-down water, which includes EPA-approved disinfectants added to wash-down water to facilitate the removal of wastes and to maintain sanitary standards during processing or to sanitize seafood processing areas.
3. Sanitary wastewater must be discharged in accordance to U.S. Coast Guard regulations [33 CFR § 159] through a certified and operable Type I or Type II Marine Sanitation Device prior to discharge.
4. Other wastewater 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.

#### **Unauthorized Discharges/Pollutants**

1. The discharge of pollutants not specifically set out in Part II.A. of the permit are not authorized under the permit.
2. The permit does not authorize any discharges from facilities that (1) have not submitted a Notice of Intent and received written authorization to discharge under the permit from EPA or (2) have not been notified in writing by EPA that they are covered under the permit as provided for in the 40 CFR 122.28(b)(2)(vi).
3. 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.A. 1321(b)(3). Any person in charge of an offshore vessel must, as soon as (s)he has knowledge of any discharge of oil or a hazardous substances from such vessel, immediately notify the U.S. Coast Guard's Command Center (1-800-478-5555).

#### **Areas Excluded from Authorization**

The permit also contains various areas of exclusion where facilities are not authorized to discharge the pollutants set forth in the permit. These areas of exclusion include:

*Protected Water Resources, critical habitats and special areas*

The permit does not authorize the discharge of pollutants into the protected water resources, critical habitats and special areas as listed below. A sample list and location maps are included in Appendices A and B of the NPDES permit.

1. Within 1 NM of a National Park, Preserve or Monument.
2. Within 1 NM of a National Wildlife Refuge.
3. Within 1 NM of a National Wilderness Area.
4. Within 1 NM of a State Game Sanctuary, State Game Refuge, State Park, State Marine Park or State Critical Habitat Area.
5. Within 3 NM of a rookery or major haul-out area of the Steller sea lion which has been designated as "critical habitat" by the National Marine Fisheries Service (NMFS) and within fishing areas closed by NMFS as critical Steller sea lion habitat.
6. Waters within one (1) nautical mile of designated critical habitat for the Steller's eider or spectacled eider, including nesting, molting and wintering units. During breeding season (May through August) Steller's and spectacled eider nesting critical habitat units are located on the Yukon-Kuskokwim Delta and North Slope. Molting habitat (July through October) for Steller's eiders includes Izembek Lagoon, Nelson Lagoon and Seal Islands. Molting habitat for spectacled eider includes Ledyard Bay and Norton Sound. Wintering habitat (October through March) for Steller's eider includes Nelson Lagoon, Izembek Lagoon, Cold Bay, Chignik Lagoon and several other locations along the Aleutian Islands. Wintering habitat for spectacled eider is in the Bering Sea between St. Lawrence and St. Matthews Islands. For complete lists and maps of Steller's eider and spectacled eider critical habitat see Appendices A and B.
7. "Living substrates", such as submerged aquatic vegetation, kelp and eelgrass in shallow coastal waters (generally less than minus 60 ft depth MLLW).

#### At-risk water resources and waterbodies

The permit does not authorize the discharge of pollutants in the following at-risk water resources and waterbodies:

1. A discharge to less than 60 feet MLLW, with inadequate flushing.

Areas with poor or inadequate flushing may include but are not limited to sheltered waterbodies such as bays, harbors, inlets, coves, lagoons and semi-enclosed water basins bordered by sills. For the purposes of this section, "poor flushing" means average currents of less than 0.33 of a knot at any point in the receiving water within 300 feet of the outfall. It is the responsibility of the permittee to prove adequate flushing in all cases where the discharge is less than 60 feet MLLW.

### Area covered by other NPDES permits

1. The permit does not authorize the discharge of pollutants to receiving waters covered by other general or individual NPDES seafood permits.

### **OTHER ALTERNATIVES CONSIDERED**

#### **ALTERNATIVE 2: NO ACTION ALTERNATIVE**

Under alternative 2, the no action alternative, EPA would reissue the current administratively extended 2001 general NPDES permit for seafood processors in Alaska without any changes to its provisions or requirements. A complete description of the no action alternative can be found by viewing the attached EA or the current NPDES permit on-line at: <http://yosemite.epa.gov/r10/water.nsf/NPDES+Permits/General+NPDES+Permits> or directly at: [http://yosemite.epa.gov/R10/WATER.NSF/40db6e4de7be6d8888256c78007f8ff7/bc30f88057c7455088256c870082cd07/\\$FILE/AK-G52-0000%202001%20FP.pdf](http://yosemite.epa.gov/R10/WATER.NSF/40db6e4de7be6d8888256c78007f8ff7/bc30f88057c7455088256c870082cd07/$FILE/AK-G52-0000%202001%20FP.pdf)

### **MITIGATION MEASURES**

EPA has included the following permit conditions as part of the offshore general permit. These permit conditions will serve as mitigation measures to lessen the potential for adverse environmental impacts from seafood processing discharges.

- The permit contains water quality- and technology-based effluent limits and monitoring requirements that are necessary to attain Federal criteria. Permittees must comply with all applicable local, state, and federal codes, statutes, and regulations.
- The permit prohibits discharges in protected or at-risk resources and waterbodies which may be particularly susceptible to degradation, as discussed in Part III of the permit and Section 2.1.5 of the EA.
- The permit limits or prohibits discharge in areas deemed to have high significance for protecting fish and wildlife resources including waters near critical habitat areas, National Wildlife Refuges and Wilderness Areas, rookeries or major haulouts of the Steller sea lion.
- Unlike the current permit, the reissued permit does not contain a provision allowing for waivers to discharge into otherwise excluded areas (*i.e.*, National Parks, National Wilderness Areas and Wildlife Refuges, at-risk water resources and waterbodies, small estuarine and marine waterbodies, degraded waterbodies, etc.,).

### **SUMMARY**

Based on the EA and consideration of the NPDES permit conditions and mitigation measures, and in accordance with the guidelines for determining the significance of proposed federal actions (40 C.F.R. 1508.27) and EPA criteria for initiating an Environmental Impact

Statement (EIS) (40 C.F.R. 6.207), EPA has concluded that the NPDES offshore general permit will not result in a significant effect on the environment.

The permit will not significantly affect land use patterns or population, wetlands or flood plains, threatened or endangered species, farmlands, ecologically critical areas, historic resources, air quality, water quality, noise levels, fish and wildlife resources, nor will it conflict with approved local, regional, or state land use plans or policies. The permit also conforms to all applicable federal statutes and executive orders. As a result of these findings, EPA has determined that an EIS will not be prepared.

Additional copies of the EA can be obtained by calling Jamey L. Stoddard at (206) 553-6110 or toll-free in AK, ID, OR and WA at (800) 424-4EPA.

\_\_\_\_\_/s/\_\_\_\_\_  
Michael A. Bussell, Director  
Office of Water & Watersheds  
U.S. EPA Region 10

\_\_\_\_12/4/09\_\_\_\_  
Date