

Response to Comments

General Permit for Offshore Seafood Processors in Alaska

NPDES Permit Number: AKG524000

June 4, 2019

On March 25, 2019, the U.S. Environmental Protection Agency Region 10 (EPA) issued a public notice for the proposed reissuance of the General Permit for Offshore Seafood Processors in Alaska, Draft National Pollutant Discharge Elimination System (NPDES) Permit No. AKG524000. The public comment period closed on May 9, 2019.

During the public comment period, the EPA received comments from the following:

- Freezer Longline Coalition (FLC)
- Groundfish Forum (GFF)
- At-Sea Processors Association (APA)

This document presents the comments received and provides corresponding responses to those comments.

ESA Consultation Measures

The EPA has been engaged in Endangered Species Act (ESA) consultation with the National Marine Fisheries Service (NMFS) and US Fish and Wildlife Service (USFWS) (collectively referred to as the “Services”) during the development of the Draft Permit. Prior to the start of the public comment period, the EPA sent the Services a revised biological evaluation (BE) that concluded that the action would not likely adversely affect any ESA-listed species or critical habitat area. NMFS provided the EPA with a list of mitigation measures pertaining to the Steller Sea Lion that the EPA accepted comments on during the public comment period. In addition, during the comment period, NMFS provided the EPA with comments on the BE. After the close of the public comment period, the EPA sent the Services a final BE and requested concurrence on the EPA’s not likely to adversely affect determination.

On June 4, 2019, USFWS concurred on this determination. The EPA has not yet completed consultation with NMFS. On June 1, 2019, NMFS provided the EPA with an excerpt from their Draft Incidental Take Statement for the Biological Opinion (BO) on the Permit, which included draft Reasonable and Prudent Measures (RPMs). RPMs are measures to minimize the amount or extent of incidental take that may result from the permit action, in this case, incidental take of the Western Distinct Population Segment (DPS) Steller Sea Lions (SSL). NMFS has indicated to the EPA that the while the agency will not be able to issue a final BO prior to Permit issuance, their final BO will include these same RPMs for the Western DPS SSLs. As such, the EPA has incorporated the draft RPMs from NMFS as final permit conditions, resulting in changes to the Daily Sea Surface Visual Monitoring Requirements and a change to the Effluent Limitation Requirement concerning grinding. The modified sections of the Permit are included below following the Response to Comment 16. The EPA has decided to issue the final permit pending completion of ESA consultation. See the *Endangered Species Act Section 7(d) Determination*

with Respect to the Issuance of the 2019 NPDES General Permit for Offshore Seafood Processors in Alaska memo.

As a result of public comments received and the draft RPMs received from NMFS during the consultation process, the following revisions were made to the permit:

- Sea Surface Visual Monitoring Requirements in the Permit were modified to include a Steller sea lion monitoring program applicable to any vessel discharging unground seafood waste in all areas. The program includes requirements to: note the time and geographic location of vessels when unground discharge commences; make observations within a 250 meter radius hemisphere behind vessels; record the number, date, time, and location of observed Steller sea lions; record whether foraging behaviors are observed; record lethal and non-lethal interactions between animals and humans/vessels; and record instances of aggressive behaviors demonstrated by animals. Records must be kept in logs that are submitted to the EPA with the Annual Report, and must also be submitted to NMFS.
- The effluent limitation requirement at V.A.3. of the permit has been modified to require any Permittee operating west of 144° west longitude to cease discharge of unground fish waste whenever Steller sea lion(s) occur within 250 meters in any direction of the vessel(s).
- The number of representative pictures required per quarter has been changed from four to at least one picture.

Other Permit Revisions

The EPA Region 10 has undergone an organizational realignment since the Draft Permit was public noticed. This has caused some name changes to groups within the organization, title changes and changes to mailstops within addresses. These updates have been made in the Final Permit.

Comments and Responses

Comment 1. Incidental Catches of Prohibited and Bycatch Species (FLC)

II Authorized Discharges

This section includes the addition of a statement that this permit authorizes discharge of “incidental catches of prohibited and bycatch species which are neither retained nor processed.” The FLC has concerns with the inclusion of this provision in the permit. The discard of prohibited and bycatch species is strictly regulated by the National Marine Fisheries Service (NMFS), who provides specific direction to fishery participants on what shall not be retained by vessels. For example, for a species such as skates, NMFS sets a maximum retainable amount (MRA) for the stock. Once the skate MRA is reached, our vessels are prohibited from retaining any skates on our lines. Likewise, all federal groundfish fishery participants in Alaska must immediately discard any halibut caught by a vessel, with minimum harm to the fish. On freezer longliners, halibut are carefully shaken off our lines before they come on board, ensuring they

return to the ocean alive and healthy. Asserting EPA authorization on discards mandated by NMFS could result in conflicting requirements, creating uncertainty for fishery participants. It is also not clear how the release of regulatory fish discards contributes in any meaningful fashion to the underlying purpose of the EPA discharge permit.

Response. The 2009 Permit contained a similar authorization that allowed the discharge of prohibited and by-catch species neither retained nor processed (Section II.A.1.a.(3) of 2009 Permit). The authorization does not take the place of, or conflict with NMFS regulations, but rather permits vessels to discharge incidental catches if needed. It does not require a vessel to discharge the incidental catch. No changes were made as a result of this comment.

Comment 2. Limitations, Monitoring and Requirements, General (FLC).

The FLC supports the EPA’s proposal, included in this section, to remove the effluent grinding requirements for all vessels if discharge occurs outside of SSL critical habitat (CH) areas, and the establishment of a 10 million lb threshold for vessels to be exempt from discharge within SSL CH. In Sec. VII(d) of the EPA Fact Sheet released for this draft permit, the agency details its rationale for the change to the grinding requirement. FLC notes that many of the supporting points detailed in the Fact Sheet are consistent with previous comments FLC has submitted to EPA on the need to revise grinding requirements, including the agency’s conclusions that:

- “there are no applicable Effluent Limit Guidelines (ELGs) for the offshore seafood processing sector in Alaska”,
- based on EPA’s own investigation, “the impacts to the seafloor and water quality from the discharge of whole or ground fish are expected to be fairly minimal,” for reasons outlined in the Fact Sheet and described in more detail in the Ocean Discharge Criteria Evaluation (ODCE) prepared for this permit, and
- “the imposition of any grinding requirement could result in operational, economic, and safety challenges for the smaller vessels,” which includes vessels in the freezer longline fleet.

Response. While grinding is generally not required for all vessels outside of Steller sea lion critical habitat, and a 10 million pound threshold was established to direct which vessels must grind within SSL critical habitat, as a result of draft RPMs provided by NMFS during the consultation process, the Effluent Limitation Requirement at V.A.3. of the permit has been modified to require any Permittee operating west of 144° west longitude to cease discharge of unground fish waste whenever Steller sea lion(s) occur within 250 meters in any direction of the vessel(s). See also EPA’s Response to Comment 10.

Comment 3. 10 Million lb. Threshold (FLC)

While supportive of the 10 million lb threshold, FLC is concerned that specifics regarding its implementation could limit the ability for members to utilize the exemption. FLC requests clarification on how it will be implemented, including on the points noted below. Additional points of concern on suggested SSL mitigation measures tied to the exemption are detailed later in these comments.

- What is meant in Sec. V(A)(3) of the draft permit when it's stated that "a Permittee is determined to discharge greater than 10 million lbs according to their annual discharge as reported in their NOI." A review of the Notice of Intent (NOI) provisions in Sec. C(5) of the draft permit suggests the "annual discharge as reported in their NOI" is the projected amount to be discharged on a daily basis and an annual basis (Sec. C(5)(e)). Confirmation of this point, or clarification otherwise is important so operators understand the specific threshold they must adhere to if they do not grind.
- If a Permittee projects (per their NOI) to discharge greater than 10 million lbs in a year, whether that Permittee is exempted from grinding in SSL CH areas up to the point when they exceed the 10 million lbs threshold, or if they are always required to grind.
- If a Permittee projected (per NOI) to discharge over 10 million lbs must always grind in SSL CH, whether a Permittee may revise their projected discharge downward during the term of the permit if they no longer project to reach the threshold. If the former is the case, FLC urges flexibility for Permittees to adjust their NOI downward so they may apply the exemption to their vessel as operations dictate.
- If a Permittee vessel meets or exceeds the 10 million lb discharge threshold while at sea, whether they must immediately start grinding their seafood processing waste, or if the requirement would be effective after a certain prescribed time. FLC recommends EPA include a buffer (e.g. 24 hrs) before grinding is required. This would minimize disruption to operations and allow time to ensure the grinder is functioning safely and effectively.

Response. Section V.A.3. requires that if discharging in Steller sea lion critical habitat, Permittees that discharge greater than 10 million pounds of seafood processing waste per annual report year must send all solid seafood processing wastes through a properly maintained and operating grinder system. In addition, per Section V.A.3, a Permittee is determined to discharge greater than 10 million pounds according to their annual discharge as reported in their NOI. Per Section V.A.2. of the Permit, 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 NOI to be covered under this Permit. In effect, the annual projected discharge amount reported by an applicant is that applicant's permit limit, once authorized to discharge. This is the same as in the previous permit. If an applicant reports in their submitted NOI that their projected discharge amount is greater than 10 million pounds per annual report year, once covered, that applicant would be required to grind at all times if discharging in Steller sea lion critical habitat areas. If during the Permit cycle, a Permittee's projected annual discharge amount falls below the 10 million pound threshold, per Section IV.A.3 of the Permit, the Permittee could submit to the EPA an updated and/or amended NOI that indicates the new projected discharge amount. Once covered under the updated NOI, that Permittee would no longer be required to grind when discharging in Steller sea lion critical habitat areas. Independent of the 10 million pound threshold and grinding requirements, any Permittee who's projected discharge amount increases must submit an updated NOI to the EPA. No changes were made as a result of this comment.

Comment 4. Grinding System (FLC)

FLC supports the language in the draft permit stating that “the grinding system must be designed and operated to grind solids to 0.5 inch or smaller prior to discharge.” This language, replacing a requirement that all seafood processing waste must be ground to 0.5 inches or smaller, acknowledges that, given current technologies, certain pieces of waste such as skins will not always be ground to within 0.5 inches, despite a fully operational grinder designed to meet the standard. FLC notes that this language is consistent with a provision also included in the recently finalized WA/OR NPDES General Permit.

On language addressing the inspection of grinding systems, FLC suggests more clarity be provided in Sec. V(B)6 stating that the size of ground residues reduced in grinding will be inspected to ensure that pieces are being ground appropriately. The language should reflect intent that all ground residues need not necessarily be ground to 0.5 inches or smaller, given the limitations with the technology.

Response. The EPA notes paragraph 1 of the comment. On language addressing the inspection of grinding systems, the EPA maintains that the wording proposed in the draft permit in Section V.B.6 is consistent with the requirements in Section V.A.3. of the permit, which acknowledge that residue sizes greater than 0.5 inch are permitted so long as the grinding system is designed and operated to grind to 0.5 inch or smaller. No changes were made as a result of this comment.

Comment 5. Fully Utilize to Extent Practicable (FLC)

FLC urges that EPA consider operational and economic considerations when determining whether a “permittee must fully utilize to the extent practicable all treatment processes available on board their vessel,” as noted in Sec. V(A)(4). FLC shares EPA’s interest to fully utilize harvest on its vessels. A key reason for our members’ efforts to modernize our fleet is to better accommodate additional treatment processes on board, including fish meal plants. However, the decision to use additional treatment processes, should they be available, is in part determined by operational and economic considerations specific to each vessel and trip. For example, a vessel must have enough freezer space to accommodate fish meal produced on board. On a given trip, some vessels may need to dedicate the freezer space to H&G (headed and gutted) product only, depending on how efficiently fish is being harvested. Likewise, operators need to have a market for their product. Operators may not save live fish or produce fish meal from certain harvested species if there isn’t a buyer for it, or at least a known market opportunity. Not doing so would mean less revenues for the operator and vessel crew.

Response. The Permit requires Permittees to utilize all treatment processes available onboard *to the extent practicable*. Permittees are responsible for determining if practical factors (e.g., economic or logistical) would make it infeasible for a Permittee to utilize all treatment processes on board. No changes were made as a result of this comment.

Comment 6. Representative Pictures (FLC)

The draft permit proposes that Permittees submit four representative pictures of seafood waste processing operations to the EPA on a quarterly basis, rather than the current requirement to submit pictures annually. The draft permit also includes revisions to the contents of the pictures.

FLC suggests that EPA reduce the number of required pictures from four to two, including one picture inside the vessel and one outside. The draft proposes three pictures outside of the vessel (plus the inside picture), but we believe one extended-view picture could reasonably capture all the content requested by the agency. FLC's interest is to minimize the need for vessel crew to stand outside on deck to take extra pictures, which is a risk to crew safety during winter (in particular) in the Bering Sea. An alternative would be to maintain annual submissions of the pictures to avoid unnecessarily exposing crew to hazardous elements.

Response. Given the potential risk to crew safety and that extended-view picture(s) can reasonably capture the desired content, the number of pictures required per quarter has been changed from four to at least one. Picture(s) must capture the following: the receiving water in the immediate vicinity of the discharge; an extended view of the receiving water showing processing waste (if any) on the sea surface behind the vessel; interactions with seabirds or marine mammals (if any); and in cases where grinding of seafood waste is required under Section V.A.3 of the Permit, the effluent sample (showing residues size). Additional pictures may be taken as needed to capture the required content. Changes were made as a result of this comment.

Comment 7. Annual Report (FLC)

Summary of Production and Discharge Data

The proposed reporting requirements for the annual report include a report on “total percent of byproduct recovered through a fishmeal, fish oil, or other byproduct recovery system, reported as a monthly average,” adding that “if not all product is utilized, explain why” (Sec. VI(B)(2)(d)(9)). FLC believes this is unnecessarily adding to the already burdensome reporting requirements for the annual report. It's not clear to FLC of the need for this requirement, as it does not contribute to understanding how much, nor what kind of waste was discharged in to the ocean. The EPA already collects some of this data when it requests information on the “types of finished product for each species harvested during each month” (Sec. VI(B)(2)(d)(3)). FLC would recommend revising Sec. VI(B)(2)(d)(3) to read “types of finished product for each species harvested during each month, including recovery of byproduct for fish oil, fish meal and other purposes.”

Response. The purpose of this annual reporting requirement is to provide the EPA with information about byproduct recovery activities in relation to the total amounts of catch processed and discharged. This will help to inform the next permit cycle. No changes were made as a result of this comment.

Comment 8. Sea Surface Visual Monitoring Requirements (FLC)

FLC requests EPA provide more clarity on specific requirements for the sea surface monitoring program. In the draft, the EPA states that the program must be conducted, with respect to monitoring of ESA species, to “record potential interactions between discharge and ESA-listed species.” The draft excludes language in the existing permit requiring monitoring for the occurrence and number of certain sea birds and marine mammals (not necessarily interacting with discharge) and the recording of any incidents in which they are injured or dead, including

probable cause for the incident. However, the EPA Fact Sheet on the draft permit suggests the new language is an “additional requirement” (pg. 9) and later that the existing permit “has been modified to include” monitoring on interactions between ESA species and discharge (pg. 21). No reference is made in the fact sheet to eliminating the existing monitoring provisions.

Additionally, it’s not clear from the draft documents whether these new monitoring activities will involve a change in the tasking of the program on board the vessel, or if an additional person will be required to fulfill the duties. FLC urges that the sea surface monitoring program, including any new or revised requirements proposed in the draft permit or as part of SSL mitigation measures suggested by NMFS continue to be tasked as is under the existing permit. No concerns have been brought forward by the EPA or other agencies to date to suggest a change from the status quo for tasking of the monitoring program, and the new requirements would not appear to necessitate additional knowledge of marine mammals or sea birds (as they are already tasked to monitor and identify them). Further, the addition of a marine mammal observer to perform the program, including SSL measures, would unnecessarily burden operators who must pay for the additional observer, estimated at \$10,000 per trip (based on costs to deploy a federal LL2 observer), and ensure there is space on the vessel. On many vessels in the freezer longline fleet, the addition of another observer on board would displace a crew member, slowing operations and eliminating a paycheck for the displaced crew.

Response. Daily Sea Surface Visual Monitoring Requirements were included in the 2009 Permit. As such, the requirement to estimate the occurrence of endangered species through daily visual monitoring is not an additional requirement in the 2019 Permit as Pg. 9 of the Fact Sheet indicates. However, given concerns expressed by NMFS during consultation process and the draft RPMs provided to the EPA by NMFS, the EPA has modified the Sea Surface Visual Monitoring Requirements to include a Steller sea lion monitoring program applicable to any vessel discharging unground seafood waste in all areas, as described below. The program will provide the EPA and NMFS with additional information regarding any potential interactions between Steller sea lions and unground discharge throughout the permit cycle, which will inform future permit issuance decisions.

Notable changes from the 2009 Permit include:

- A stated purpose in the 2019 Permit to record potential interactions between the discharge and Endangered Species Act (ESA)-listed species.
- While the 2009 Permit required only that logs be submitted to EPA upon request, the 2019 Permit requires Permittees to submit logs to the EPA with the Annual Report, and also submit logs specific to Steller sea lion monitoring to NMFS annually at the address provided in the 2019 Permit.
- While the 2019 Permit does not incorporate mitigation measures requiring dedicated marine mammal observers on board vessels and requiring reporting of volumes of ground and unground waste that are discharged, the following monitoring requirements have been incorporated into the final permit as a result of draft RPMs provided by NMFS:

- For all vessels in all areas during the period of time that unground seafood waste is being discharged, vessels must:
 - Record the date and start and stop time of discharge(s);
 - Record the geographic coordinates of the vessel at the start and stop time of discharge(s);
 - Make observations within the 250 meter radius hemisphere astern of the vessel;
 - Record the number, date, time, and location of observed Steller sea lions;
 - Record whether Steller sea lions were engaged in foraging behavior(s) within the 250 meter radius;
 - Record any lethal and non-lethal interactions between Steller sea lions and fishing gear, indicating the nature of the interaction, the date, time, and location of the contact, the number of animals interacting with the gear, the outcome of the interaction, the behavior of animals during the interaction, and whether entanglement or entrapment in gear either occurred or was suspected to have occurred; and
 - Report all instances of aggressive behavior of Steller sea lions towards humans or vessels, noting the date, time, location, number of animals involved, and the nature and outcome of the aggressive interaction.

Observers may be vessel captain(s) or crew member(s) provided the individual(s) have a clear view of the waters astern of the vessel and are able to discern Steller sea lions at a distance of 250 meters.

Comment 9. Proposed NMFS Steller Sea Lion Mitigation, General (FLC)

In the Fact Sheet to the draft permit, the EPA asks for comment on SSL mitigation measures suggested by NMFS to account for potential impacts on SSL foraging behavior from vessels not grinding their seafood processing waste while discharging in SSL CH areas. The FLC has strong reservations about the need for any such SSL mitigation measures. FLC outreach to veteran vessel captains and fleet managers about fleet interaction with SSL suggests that, while interaction occasionally occurs at sea, grinding waste has resulted in little observed difference by captains in SSL interactions by freezer longliners relative to when vessels did not grind. Captains and managers noted that in the occasions when SSL have been present, SSL are most interested in fish being hauled up on the line rather than discharges (ground or unground) from the vessels. Captains and managers further note that they have had no experience with an SSL becoming entangled or entrapped in SSL gear on our vessels. It's important to keep in mind that under the current permit, vessel encounters with SSL and other ESA species are already monitored and recorded.

Some specific comments from FLC member captains and fleet managers:

Vessel captain: "In the past 10 years while I was on board, we have had 2 interactions with SSL... Both swam alongside the boat while we were hauling gear. The sea lions both swam away after 10 minutes."

Vessel captain: “I haven’t seen a SSL in years, while fishing crab or cod. I do think that the grinding of the fish remains is attracting more birds.”

Vessel captain: “This is area specific but in the context of a season... it (SSL interaction) is a rare event and getting less. My experience with SSL is that currently they are feeding off the cod on the longline or cod drop off. The SSL rip the throat of the cod and eat the liver and discard the carcass. I have never seen or had an SSL entangled or entrapped in the gear.”

Fleet manager (six vessels): “We rarely see SSL’s. When they do come around, they tend to not hang around very long. When they do hang around, they are most interested in eating the fish coming up on the line... The captains have not noticed more SSL interaction since we began grinding.”

Response. The EPA acknowledges the logistical, economic, and safety-related challenges associated with starting and stopping grinding, and that grinders may be removed from vessels that are exempted from grinding requirements, making it impossible to start and stop. The EPA also acknowledges potential cost and operational burdens of adding dedicated marine mammal observers. However, as a result of RPMs provided by NMFS during ongoing consultation, the EPA has revised the Daily Sea Surface Visual Monitoring Requirements as noted in EPA’s response to Comment 8.

Comment 10. NMFS Steller Sea Lion Mitigation Measure 1 (FLC)

Proposed measure: Require that in waters west of 144 degrees W longitude (Cape Suckling), discharges of unground waste must cease whenever SSL occur within 250 m of vessels operating under the permit until no SSL have been observed within 250 m of the vessel for at least 15 consecutive minutes following the cessation of discharge of unground waste.

FLC comments: FLC questions the need for action to cease discharges of unground waste when SSL are observed near the vessel. The draft permit is already proposing to specifically monitor interaction between SSL and vessel discharge, both when grinding and not grinding waste. This will provide extensive and detailed information on interactions with SSL and whether or not grinding may result in any changes in foraging behavior for SSL. Neither NMFS nor EPA have indicated any specific biological basis for a requirement to cease discharges of unground waste, other than the potential that SSL may change their behavior. Meanwhile, this requirement would likely force operators to maintain grinders on their vessels, even if they have no expectation of exceeding the 10 million lb discharge threshold and they rarely encounter SSL at sea. This would result in grinders and related equipment continuing to take up valuable space on smaller vessels and, when used, continue to be a safety risk and an additional operational cost for operators. FLC also questions the ability to effectively implement this requirement, particularly in rough weather in the winter months when determining a precise distance of a SSL from a vessel may be difficult, at best. FLC would recommend EPA adopt its proposed changes to the sea surface monitoring program to monitor interactions between discharge and SSL and make available these observations to NMFS for their review.

Response. While the EPA acknowledges potential burdens associated with periodic cessation of unground discharges, as a result of draft RPMs provided by NMFS during consultation, the EPA has revised the effluent limitation requirement at Part V.A.3. of the 2019 Permit to require any Permittee operating west of 144° west longitude to cease discharge of unground fish waste whenever Steller sea lion(s) occur within 250 meters in any direction of the vessel(s). The requirements at Part V.A.3. specify the conditions under which discharges of unground waste must cease, but do not specify how Permittees must accomplish this. Thus, it is left up to the individual Permittee to decide whether to stop discharging or whether to leave the grinders on to grind seafood waste. See EPA Responses to Comments 8 and 9.

Comment 11. NMFS Steller Sea Lion Mitigation Measure 2 (FLC)

Proposed measure: Require vessels to use marine mammal observers to watch for and report on sea lions within 250 m of a vessel when discharging unground waste. Observers will have the ability and authority to order the cessation of unground discharge.

FLC comments: FLC requests clarification on what is meant by “marine mammal observers” to monitor SSL sightings and interactions with vessels and to provide regular reports. FLC would strongly object to any mitigation measures requiring an operator to carry an additional observer in order to not grind on their vessels. FLC recommends “marine mammal observers” be interpreted as vessel crew, or alternatively the federal observer already on board.

For many, if not all operators in our fleet, the additional costs and bunk space, as referenced above, required to carry this additional observer would negate many of the benefits of not grinding and create too many challenges to realistically utilize the exemption proposed in the permit. We would recommend any SSL monitoring and reporting measures be carried out consistent with tasking of the existing EPA sea surface monitoring program, as described above. This would assign marine mammal observations and reporting to vessel crew (typically captains and mates). Additional assistance may be provided by the federal observer on board the vessel.

Response. The EPA acknowledges costs associated with employing marine mammal observers in addition to crew. However, as a result of draft RPMs provided by NMFS during ongoing consultation, the EPA has modified Permit conditions to require that observations must be made astern of vessels anytime discharge of unground waste occurs. See EPA Responses to Comments 8 and 9.

Comment 12. NMFS Steller Sea Lion Mitigation Measure 3 (FLC)

Proposed measure: Require reporting of daily (or perhaps weekly) volumes of ground and unground waste that are discharged, and the geographic locations of these discharges, along with an indication of the vessel’s fishery and gear type. Require vessels to prepare and submit annual monitoring reports containing all of the information detailed above.

FLC comments: This information requested appears to be duplicative of data already provided to EPA. If applied, this will create unnecessarily burdensome paperwork demands on operators. FLC recommends NMFS and EPA reach agreement to share this information, if such an agreement does not already exist, rather than require operators to complete additional reporting

materials for agency review. A sample of EPA reporting forms that requests this information from our operators is attached.

Response. This mitigation measure was not included in the Permit. See EPA Responses to Comments 8 and 9.

Comment 13. Updated Permit Conditions (GFF)

We appreciate the efforts the U.S. EPA has undertaken in the draft permit to modernize the NPDES program so that the permit requirements are more suitably adapted to the wide range of mobile fish processing vessels that have evolved in Alaska over the past thirty years. Most importantly to our fleet, we support the proposed revisions to the size / dimension standards for grinding. We agree that the original permit standard was developed for fixed, shore-based fish processing plants and that standard was incorrectly applied to mobile offshore fish processing vessels. Furthermore, the new grinding standard for Alaska would be consistent with the permit requirements recently issued for offshore seafood processors operating off of Oregon and Washington coasts. Considering a number of fish processing vessels that are required to comply with the NPDES requirements operate in both regions, it is important to have consistency in the permit requirements.

Response. Comment noted. No changes were made as a result of this comment.

Comment 14. Grinding Requirement Revisions and Removal of Metals Monitoring (GFF)

In addition to the grinding requirement revisions, Groundfish Forum supports the removal of the requirement to test for metals and the Best Management Practices which recognize the mobile nature of fish processing vessels. We would note that while the proposed permit does allow exemptions from grinding for smaller vessels operating in Steller Sea Lion critical habitat, our vessels are of sufficient size and production capability that this exemption would not apply to our fleet's operations. As such we anticipate continuing to use grinders throughout the range of our fisheries.

Response. Comment noted. No changes were made as a result of this comment.

Comment 15. Permit Modifications, General (APA)

We would like to acknowledge the efforts of the EPA to modify the permit to recognize new information supporting the proposal to eliminate the metals testing requirement and revising the grind size/dimension standards. Additionally, we appreciate the improvement in the implementation section. We acknowledge there is an exemption for vessels with less than ten million pounds of annual discharge from the grinding requirement while operating in Steller Sea Lion Critical Habitat (SSLCH). Our vessels will not qualify and intend to continue to grind in all areas.

Response. Comment noted. No changes were made as a result of this comment.

Comment 16. NMFS Steller Sea Lion Mitigation Measures (APA)

The FACT SHEET, section X, page 26, lists mitigation measures suggested by NMFS for vessels exempted from grinding in SSL CH. We have no comments on the measures but would like to be clear that any mitigation measures would only apply to exempt vessels and no new measures would be required by those vessels continuing to meet the grind standards.

Response. As a result of draft RPMs provided by NMFS during the consultation process, the EPA has revised the Daily Sea Surface Visual Monitoring Requirements as noted in EPA's response to Comment 8. These requirements apply to any vessel in all waters if discharge of unground waste occurs. The updated requirement at Part V.A.3. does not apply if grinding is occurring. See EPA Responses to Comments 8 and 9.

Changes to the Permit Resulting from NMFS' Draft RPMs

As a result of draft RPMs provided to the EPA by NMFS on June 1, 2019, the Sea Surface Visual Monitoring Requirements in Section VI.C. and the Effluent Limitation Requirement at V.A.3. were modified in the 2019 Permit. Language from the Permit is below.

VI.C. SEA SURFACE VISUAL MONITORING REQUIREMENTS

1. **Applicability.** During the term of this Permit, the Permittee must conduct a sea surface monitoring program.
2. **Purpose.** A Permittee must conduct a sea surface monitoring program to monitor marine water quality and record potential interactions between the discharge and ESA-listed species.
3. **Objectives.** Daily monitoring of the sea surface will provide assessments of the presence and amounts of residues floating on the sea surface during a facility's operation and record potential interactions between ESA-listed species and the discharge.
4. **Sea surface monitoring requirements for all vessels.** This monitoring program will inform the EPA of the presence of residues/aesthetics, color, oil and grease, and solids on the sea surface and record potential interactions between ESA-listed species and the discharge. Permittees must:
 - Record the total number of days for which observations were made,
 - Record the daily occurrence and areal extent of floating seafood waste, contiguous films, sheens or mats of foam, and,
 - Include ESA-listed species monitoring
 - (1) The sea surface monitoring must estimate the occurrence and number of the following ESA-listed species attracted to the discharge identified within the survey area: short-tailed albatross (*Phoebastria albatrus*), spectacled eider (*Somateria fischeri*), Steller's eider (*Polysticta stelleri*), and Steller sea lion

(Eumetopias jubatus).

5. Steller sea lion monitoring for vessels when discharging unground waste. For all vessels in all areas during times that unground seafood waste is being discharged, vessels must:
 - Record the date and start and stop time of discharge(s);
 - Record the geographic coordinates of the vessel at the start and stop time of discharge(s);
 - Make observations within the 250 meter radius hemisphere astern of the vessel;
 - Record the number, date, time, and location of observed Steller sea lions;
 - Record whether Steller sea lions were engaged in foraging behavior(s) within the 250 meter radius;
 - Record any lethal and non-lethal interactions between Steller sea lions and fishing gear, indicating the nature of the interaction, the date, time, and location of the contact, the number of animals interacting with the gear, the outcome of the interaction, the behavior of animals during the interaction, and whether entanglement or entrapment in gear either occurred or was suspected to have occurred; and
 - Report all instances of aggressive behavior of Steller sea lions towards humans or vessels, noting the date, time, location, number of animals involved, and the nature and outcome of the aggressive interaction.

Observers may be vessels captain(s) or crew member(s) provided the individual(s) have a clear view of the waters astern of the vessel and are able to discern Steller sea lions at a distance of 250 meters.

6. Schedule.
 - All Permittees must conduct a daily sea surface monitoring program during operation of each year of coverage.
 - Permittees discharging unground seafood waste must conduct Steller sea lion monitoring.
7. Monitoring reporting. Sea surface monitoring logs 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 to the EPA with the Annual Report.

In addition to submission to EPA, logs related to Steller sea lion monitoring for vessels when discharging unground waste must be submitted to NMFS Alaska Protected Resources Division by March 31 at the address below. Reports must include a query-able, digital database containing all observer data required in VI.C.5.

NMFS Alaska Protected Resources Division
NOAA Fisheries
222 W 7th Ave
Anchorage, AK 99513

8. Signatory requirements. A Permittee must ensure that the monitoring report is signed by a principal officer or a duly appointed representative of the Permittee.

V.A.3. EFFLUENT LIMITATION REQUIREMENTS

Collection, conveyance, treatment and limitation of seafood processing wastes. If discharging in Steller sea lion critical habitat, permittees that discharge greater than 10 million pounds of seafood processing waste per annual report year must send all solid seafood processing wastes through a properly maintained and operating grinder system. The grinding system must be designed and operated to grind solids to 0.5 inch or smaller prior to discharge. A Permittee is determined to discharge greater than 10 million pounds according to their annual discharge as reported in their NOI. Critical habitat areas are designated by NMFS and identified in 50 CFR § 226.202 and Tables 1 and 2 to 50 CFR § 226.

In all waters west of 144° west longitude, the discharge of any unground waste must cease whenever Steller sea lion(s) occur within 250 meters in any direction of the vessel(s). Discharge of unground waste may not resume until no Steller sea lions have been observed within 250 meters of the vessel for at least 15 consecutive minutes following the cessation of discharge of unground waste.

Attachments

1. 7d memo
2. RPMs from NMFS