

death, injury, or serious adverse effects to human health or the environment. EPA is also required to set threshold quantities for each list substance. The list and threshold quantities will determine the need for owners and operators of facilities to comply with subsequent regulations addressing the prevention and detection of accidental releases. The act also requires the Agency to develop procedures for the addition and deletion of substances from the list. Accordingly, EPA has published a list of regulated substances and threshold quantities and also the requirements for the petition process that will be used to add or delete chemicals from the final list.

The listing rule requires the petitioner to submit information in support of a petition to modify the list of regulated substances. The petitioner must provide EPA with sufficient information to specifically support the request to add or delete a substance from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. The information collection addresses the burden of collecting and submitting supporting information in accordance with EPA's proposed petition process. Information will be collected on a voluntary basis, and all the information collected requesting modification of the substance listings will be stored in a docket created for that purpose.

This information collection is authorized under CAA section 112(r), 42 U.S.C. 7412(r). CAA section 112(r)(3) states, in relevant part, "The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b)." The information collected during the petition process will provide the primary basis for EPA to determine if it is appropriate to add or delete the substance from the list. To be consistent with the petition process under CAA section 112(b), EPA is required to consider and respond to petitions to modify the list of regulated substances for accidental release prevention within 18 months of submission of the petition; complete data supporting the petition are necessary to allow EPA to complete its review within that time period. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on

this collection of information was published on 9/29/95 (60 FR 50574).

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 138 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Voluntary.

**Estimated Number of Respondents:** 11/year.

**Frequency of Response:** Voluntary/ Once per petition.

**Estimated Total Annual Hour Burden:** 1,518 hours.

**Estimated Total Annualized Cost Burden:** \$67,624.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1606.02 and OMB Control No. 2050-0127 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: January 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.  
[FR Doc. 96-2355 Filed 2-2-96; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5417-2]

### Proposed Settlement Agreement, Clean Air Act Petition for Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed settlement; request for public.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), notice is hereby given of a proposed settlement agreement in the following cases: *National Tank Truck Carriers, Inc. versus U.S. Environmental Protection Agency*, No. 94-1323 (D.C. Cir.). This petition for review was filed under § 307(b) of the Act, 42 U.S.C. 7607(b), contesting various aspects of the regulations issued by EPA on December 15, 1993 for reformulated and conventional gasoline.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed agreement if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed settlement agreement is available from Phyllis J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7606. Written comments should be sent to Susmita Dubey, Esq. at the above address and must be submitted on or before March 6, 1996.

Dated: January 30, 1996.

Scott Fulton,

Principal Deputy General Counsel.

[FR Doc. 96-2352 Filed 2-2-96; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5412-4]

### The Pribilof Seafood Processors General NPDES Permit (General NPDES Permit No. AK-G52-P000)

**AGENCY:** Environmental Protection Agency, Region 10.

**ACTION:** Notice of Final General NPDES Permit.

**SUMMARY:** The Director, Office of Water, EPA Region 10, is issuing General National Pollutant Discharge Elimination System (NPDES) permit no.

AK-G52-P000 for seafood processors discharging within three nautical miles of the Pribilof Islands, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. The final Pribilof seafood processors general NPDES permit authorizes discharges from facilities discharging through stationary outfalls on St. Paul and St. George Islands, and from mobile vessel discharging within the three nautical mile coastal zone of the Pribilof Islands. These facilities are engaged in the process of fresh, frozen canned, smoked, salted and pickled seafoods. Discharges authorized by the proposed permit include seafood processing wastes, process disinfectants, sanitary wastewater and other wastewaters, including domestic wastewater, cooling water, gray water (vessels only) freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to a facility, and live tank water. The permit will authorize discharges to waters of the United States in and contiguous to the State of Alaska within three nautical miles of the Pribilof Islands.

The permit does not authorize the discharge of processing wastes and wastewaters from the production of surimi or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of finfish wastes into fish or bone meal. The permit does not authorize discharges of petroleum hydrocarbons, toxic pollutants, or other pollutants not specified in the permit. The permit does not authorize discharges to waters with poor flushing or areas of special concern. The areas of special concern include: within three nautical miles of Walrus Island year-round, a designated rookery and critical habitat of the Steller sea lion; within one-half nautical mile of land owned and managed by the U.S. Fish and Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30; within one-half nautical mile of land owned and managed by the National Marine Fisheries Service (NMFS) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and within one-half nautical mile of designated Steller sea lion haulouts areas year-round (Seal Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George; and within one-half nautical mile of the Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

This final Pribilof seafood processors general NPDES permit is an "interim" period for two years to provide time to

collect field data and conduct an effluent monitoring program to determine the impact of seafood processing wastes on the marine environment. EPA has determined that, on the basis of available information, there will be no unreasonable degradation during the two year interim period. Facilities authorized to discharge under this final permit will participate in the data collection and monitoring program as well as being required to comply with all conditions of the permit.

Notice of the draft Pribilof seafood processors general NPDES permit was published October 10, 1995 in the Federal Register [60 FR 52677] and the Anchorage Daily News and the Dutch Harbor Fisherman.

The final permit is printed below and establishes effluent limitations, standards, prohibitions, monitoring requirements and other conditions on discharges from seafood processors in the area of coverage. The conditions are based on material contained in the administrative record, including an ocean discharge criteria evaluation, an environmental assessment, a finding of no significant impact, and a biological evaluation of potential effects on threatened and endangered species. Changes made in response to public comments are addressed in full in a document entitled "Responses to Public Comments on the Proposed Issuance of the Pribilof Seafood Processors General NPDES Permit." This document is being sent to all commenters, current permittees and applicants and is available to other parties from the address below upon request.

**ADDRESSES:** Unless otherwise noted in the permit, correspondence regarding this permit should be sent to Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Florence Carroll of EPA Region 10, at the address listed above or telephone (206) 553-1760. Copies of the final Pribilof Seafood Processors General NPDES Permit will be provided upon request to the Region 10 Public Information Center at (206) 552-1200 or 1-800-424-4372 (available only from the states of Oregon, Washington, Idaho, and Alaska).

**SUPPLEMENTARY INFORMATION:** EPA issues this Pribilof seafood processors general NPDES permit pursuant to its authority under Sections 301(b), 304, 306, 307, 308, 401, 403 and 501 of the Clean Water Act. The fact sheet for the draft permit, the response to comments document, the ocean discharge criteria

evaluation, the biological evaluation, the environmental assess, the 401 certification issued by the State of Alaska, and the coastal zone management plan consistency determination issued by the State of Alaska set forth the principal facts and the significant factual, legal and policy questions considered in the development of the terms and conditions of the final permit presented below.

The state of Alaska, Department of Environmental Conservation, has issued a Certificate of Reasonable Assurance that the subject discharges comply with the Alaska State Water Quality Standards.

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination, has certified that the Pribilof seafood processors general NPDES permit is consistent with the approved Alaska Coastal Management Program.

Changes have been made from draft permit to the final permit in response to public comments received on the draft permit and the final coastal management plan consistency determination from the State of Alaska.

The following identifies several specific areas of change, among others, which have been embodied in the final permit: applicants for new shore-based facilities may apply for a waiver to discharge within the one-half mile exclusion zone during the period of May 1 through December 1; the limit of production to 1995 levels was changed to Notice of Intent projection production levels; the four-hour restriction on processing within the exclusion zone was changed to allowing mobile vessels to enter the exclusion zone during the period of May 1 through December 1 only for safety reasons and to make all efforts to avoid any discharges of any pollutants while in the exclusion zone; permittees may participate in joint monitoring programs as appropriate; and include video or photographic documentation of seafloor, sea surface and shoreline monitoring.

#### Appeal of Permit

Within 120 days following this service of notice of EPA's final permit decision under 40 CFR 124.15, any interested person may appeal the Pribilof seafood processors general NPDES in the Federal Court of Appeals in accordance with Section 509(b)(1) of the Clean Water Act. Persons affected by a general NPDES permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge this permit in court or apply for an

individual NPDES permit and then request a formal hearing on the issuance or denial of an individual permit.

Dated: January 23, 1996.

Philip G. Millam,

*Acting Director, Office of Water.*

Authorizations To Discharge Under the National Pollutant Discharge Elimination System for Seafood Processors Within Three Nautical Miles of the Pribilof Islands

[General Permit No. AK-G52-P000]

In compliance with the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. (hereafter, CWA or the Act), the owners and operators of seafood processing facilities engaged in the processing of seafood, both mobile vessels and shore-based facilities are authorized to discharge seafood processing wastes and other designated wastewaters within three nautical miles of St. Paul and St. George Islands, in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

Upon the effective date of this Permit, it is the controlling document for regulation of seafood processing wastes and other designated wastewaters discharged within three nautical miles of the Pribilof Islands. The General NPDES Permit for Seafood Processors in Alaska (AK-G52-0000) which became effective August 4, 1995, is the controlling document for applicable waste discharges to waters of the United States which surround Alaska and are further than three nautical miles from the Pribilof Islands. The former administratively continued general permit which expired on October 31, 1994, is no longer valid for facilities discharging within three nautical miles of the Pribilof Islands as of the effective date of this general permit and receipt of authorization to discharge.

A copy of this General Permit must be kept at the Plant or on the vessel where discharges occur.

This permit becomes effective 30 days after issuance.

This permit and the authorization to discharge shall expire at midnight two years from the effective date of the permit.

Signed this 23rd day of January, 1996.

Philip G. Millam,

*Acting Director, Office of Water, Region 10, U.S. Environmental Protection Agency.*

Table of Contents

Cover Page

1.0. Basis for Issuing This Permit

1.1. Ocean Discharge Criteria

1.2 Permit Issuance

1.3. Issuance of This Permit

1.4. Special Condition for Modifying or Revoking This Permit

2.0. Authorized Facilities, Authorized Discharges, Unauthorized Discharges, and Excluded Areas

2.1. Authorized Facilities

2.2. Authorized Discharges

2.3. Unauthorized Discharges

2.4. Excluded Areas

3.0. Application to be Covered Under This General NPDES Permit

3.1. Submittal of a Notice of Intent

3.2. Information to be Submitted in the Notice of Intent

4.0. Effluent Requirements

4.1. Seafood Wastes and Wastewater Limitations

4.2. Sanitary Wastes

4.3. Other Wastewaters

4.4. State Water Quality Standards

4.5. Vessel Wastes

4.6. Discharge Pipe Location and Conditions

5.0. Monitoring

5.1. Reporting

5.2. Seafloor Monitoring

5.3. Sea Surface and Shoreline Monitoring

6.0. Reporting Requirements

6.1. Quarterly Report

6.2. Facility Reporting

6.3. Signatory Requirement

6.4. Submittal

7.0. Special Conditions and Requirements

7.1. Discharges from Mobile Vessels

7.2. Discharges from Stationary Outfalls

7.3. New Shore-based Facilities

7.4. Inventory of Waste Streams

7.5. Pollution Prevention Plan and Implementation

7.6. Discharge Effluent Sampling

8.0. Reporting and Recording Requirements

8.1. Records Contents

8.2. Retention of Records

8.3. Twenty-four Hour Notice of Noncompliance

8.4. Other Noncompliance Reporting

9.0. Compliance Responsibilities

9.1. Duty to Comply

9.2. Penalties for Violations of Permit Conditions

9.3. Need to Halt or Reduce Activity Not a Defense

9.4. Duty to Mitigate

9.5. Proper Operation and Maintenance

9.6. Bypass of Treatment Facilities

9.7. Upset Conditions

9.8. Planned Changes

9.9. Anticipated Noncompliance

10.0. General Provisions

10.1. Permit Actions

10.2. Duty to Reapply

10.3. Duty to Provide Information

10.4. Other Information

10.5. Signatory Requirements

10.6. Availability of Reports

10.7. Inspection and Entry

10.8. Oil and Hazardous Substance Liability

10.9. Property Rights

10.10. Severability

10.11. Transfers

10.12. State Laws

10.13. Reopener Clause

11.0. Definitions

1.0. Basis for Issuing This Permit

1.1. Ocean Discharge Criteria

The Ocean Discharge Criteria establishes guidelines for issuance of NPDES permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans (40 CFR 125 Subpart M).

EPA must determine whether a discharge will cause unreasonable degradation of the marine environment based on various considerations including bioaccumulation or persistence of pollutants to be discharged; the potential transport of such pollutants by biological, physical, or chemical processes; the composition and vulnerability of the biological communities which may be exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites \* \* \* any applicable requirements of an approved Coastal Zone Management plan. \* \* \*

1.2. Permit Issuance

If EPA has insufficient information to determine prior to permit issuance that there will be no unreasonable degradation of the marine environment, there shall be no discharge of pollutants to the marine environment unless, on the basis of available information, EPA determines that:

Such discharge will not cause irreparable harm to the marine environment during the period in which monitoring is undertaken, and

There are no reasonable alternatives to on-site disposal of materials, and

The discharge will be in compliance with all permit conditions.

In addition, all permits which authorize the discharge of pollutants into the marine environment shall:

Require that a discharge of pollutants will be in compliance at the edge of any mixing zone and not exceed the Ocean Dumping Criteria;

Specify a monitoring program which is sufficient to assess the impact of the discharge on water, sediment and biological quality;

Contain any other conditions including bioaccumulation tests, seasonal discharge, process modification, or dispersion of pollutants.

1.3. Issuance of this Permit

EPA has determined that this Permit can be issued based on the available information that there will be no unreasonable degradation of the marine environment. The monitoring program, including sea floor, sea surface and shoreline, and effluent sampling in this

Permit will allow for data to be gathered and the Permit conditions will protect the marine environment during the two years this Permit will be in effect.

#### 1.4. Special Condition for Modifying or Revoking this Permit

This Permit shall be modified or revoked at any time if, on the basis of any new data, EPA determines that continued discharges may cause unreasonable degradation of the marine environment.

#### 2.0. Authorized Facilities, Authorized Discharges, and Excluded Areas

##### 2.1. Authorized Facilities

The following facilities, upon receipt and approval of complete and timely NOIs, are authorized to discharge under this general permit:

2.1.1. Shore-based. Owners and operators of the seafood processing facilities including moored floating or mobile barges that currently discharge through stationary outfalls on St. Paul and St. George Islands, provided they comply with the requirements of Section 7.2 and all other applicable conditions of this Permit.

2.1.2. Vessels. Owners and operators of mobile seafood processing vessels that operate within three nautical miles of St. Paul, St. George, or Otter Islands (see Section 2.4.2.1 for restrictions around Walrus Island), provided they comply with all applicable conditions of this Permit.

##### 2.2. Authorized Discharges

This Permit authorizes the discharge of the following pollutants subject to the limitations and conditions set forth herein:

2.2.1. Seafood processing wastes, except wastes from the production of surimi and/or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of seafood wastes into fish or bone meal;

2.2.2. Process disinfectants;

2.2.3. Sanitary wastewaters; and

2.2.4. Other wastewaters, including domestic wastewater, cooling water, boiler water, gray water (vessels only), freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to the facility, and live tank water.

##### 2.3. Unauthorized Discharges

The discharges of wastes and pollutants not specifically set out above are not authorized under this Permit.

##### 2.4. Excluded Areas

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

2.4.1. Poor Flushing. Areas that are likely to have poor flushing (see definition in Section 11), including, but not limited to, sheltered water bodies such as bays, harbors, inlets, coves, and lagoons.

2.4.2. Areas of Special Concern. These areas include rookeries, haulout areas and designated critical habitat, including, but not limited to, the following:

2.4.2.1. Within three nautical miles of Walrus Island, a designated rookery and critical habitat of the Steller sea lion;

2.4.2.2. Within one-half nautical mile of the following:

- land owned and managed by the U.S. Fish & Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30;

- land owned and managed by the National Marine Fisheries Service (NMFS) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and

- designated Steller sea lion haulout areas year-round (Sea Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George); and the

- Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

#### 3.0. Application to be Covered Under This General NPDES Permit

In order to be authorized to discharge any of the pollutants set out in Section 2.2 to waters of the St. Paul and St. George coastal zones under this general permit, seafood processors must apply for coverage. This general NPDES permit does not authorize any discharges from facilities that have not applied for and received authorization to discharge within three nautical miles of St. Paul and St. George Islands.

##### 3.1. Submittal of a Notice of Intent

An applicant wishing authorization to discharge under this Permit shall submit a timely and complete Notice of Intent (NOI) to EPA and ADEC in accordance with the requirements listed below. A qualified applicant will be authorized to discharge under this Permit upon written notification from EPA and the returned receipt of the signed U.S. Postal Certified Mail card. EPA's written notification will include assignment of an NPDES permit number designating coverage under the Pribilof Seafood General Permit.

Coverage under the Alaska Seafood General Permit No. AK-G52-0000, effective August 4, 1995, does not extend to operations and discharges

within three nautical miles of the Pribilof Islands.

In compliance with the Paperwork Reduction Act, 44 U.S.C. § 1501 et. seq., the Office of Management and Budget has approved the information in a Notice of Intent for permit application (OMB 2040-008).

3.1.1. Timely NOI. Permittees previously permitted under the Seafood General Permit AK-G52-0000 must submit a timely and complete NOI for coverage under the Pribilof Seafood General Permit within 30 days after the issuance date of this Permit.

3.1.2. New Applicant. A new applicant must submit an NOI at least 60 days prior to commencement of operating and discharging within the coastal zones of St. Paul and St. George Islands. (See also Section 7.4.)

3.1.3. NOI Update. A permittee authorized to discharge under this Permit shall submit to EPA and ADEC an updated NOI when there is any material change in the information submitted in the original NOI including a proposed increase in the amount of production, additional species of seafood to be processed, and additional types of finished product. Any changes to the original NOI requires a 60 day prior notice period to EPA and ADEC. After consultation with ADEC and the Coastal Zone Management Program EPA will notify the permittee of approval or disapproval.

3.1.4. Individual Permit Requirement. EPA may require any discharger applying for coverage under this general NPDES permit to apply for and obtain an individual NPDES permit in accordance with the 40 CFR 122.28(b)(3).

3.1.5. Submittal. An applicant shall submit the NOI to:

U.S. Environmental Protection Agency, Region 10, NPDES Compliance Unit OW-135, 1200 Sixth Avenue, Seattle, Washington 98101, and Alaska Department of Environmental Conservation, Attn: Water Permits, 555 Cordova Street, Anchorage, Alaska 99501

##### 3.2. Information to be Submitted in the Notice of Intent

3.2.1. Previous NPDES Number. The NOI shall include any previous NPDES number(s) assigned to the facility or vessel and the ADEC seafood processor license number.

3.2.2. Owner Information. The NOI shall include the name and the complete address and telephone number of the owner of the facility or vessel and the name of its duly authorized representative. If a FAX machine is

available at this address, it is useful to provide a FAX number.

3.2.3. *Managing Company.* The NOI shall include the name and the complete address and telephone number of the managing company of the facility or vessel and the name of its duly authorized representative. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4. *Facility or Vessel Information.* The NOI shall include the name, address, and telephone number of the facility or vessel. If the name of the facility or vessel has changed during the last five years, the NOI shall include the previous name(s) of the facility and the date(s) of these changes. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4.1. For a shore-based facility, the NOI shall include a description of the physical location of the facility, the location of the outfall terminus using the Global Positioning System (GPS), and the length of the outfall from shoreline to terminus.

3.2.4.2. For a mobile facility, the NOI shall include the U.S. Coast Guard (USCG) vessel number, the type, length and date of purchase of the vessel.

3.2.4.3. The NOI shall include and estimate of the number of seasonal and annual employees of the facility or on the vessel.

3.2.5. *Projected Production.* The NOI shall include projected production data based upon historical operations and design capacity on a daily and annual basis. Production data includes an identification of the process applied to the product, the name and quantity of the raw product(s) by species, the type of the finished product(s), the amount of the finished product(s), and the maximum quantity of each raw product which can be processed in a 24-hour day. The NOI shall also include the projected number of operating days by month for the facility or vessel.

3.2.6. *Discharge Information.* The NOI shall include information concerning all the discharges from the facility or vessel.

3.2.6.1. The NOI shall identify the type and capacity (by gallons) of the sanitary wastewater treatment system (other than a municipal system) on site or on the vessel.

3.2.6.2. The NOI shall include a list of the number, type, waste solids weights, and wastewater volumes of each discharge and the maximum quantity of process wastes which can be produced in a 24-hour day.

3.2.6.3. The NOI shall include specific information on type and amounts of process disinfectants, domestic wastewater cooling water, boiler water,

refrigeration condensate, transfer water, gray water, live tank water, and freshwater pressure relief water.

3.2.7. *Signatory Requirement.* All NOIs shall be signed by a principal corporate officer or duly appointed representative according to Section 10.5.

#### 4.0. Effluent Requirements

##### 4.1. *Seafood Wastes and Wastewater Limitations*

4.1.1. *Amount of Seafood Waste Discharged.* The volume or weight of seafood process wastes discharged on a daily or annual basis shall not exceed the amount reported in the Notice of Intent to be Covered under this Permit.

4.1.2. *Treatment and Limitation of Seafood Wastes.* All seafood process wastes shall be routed through a waste-handling system which prevents the discharge of waste solids of greater than one-half (0.5) inch in any dimension.

4.1.2.1. *Incidental discharges from scuppers or floor drains* must be routed through the waste-handling system or screened to 0.5 inch in any dimension.

4.1.2.2. Each permittee shall conduct a daily visual inspection of the waste-handling system, including a close observation of the sump or other place of observation for, and removal of, gloves, earplugs, rubber bands, or other equipment used in processing seafood that may be discharged through the outfall. Discharge of such items is prohibited. Logs of this daily inspection are to be kept at the facility or on board the vessel. Summaries of positive reports shall be submitted with the quarterly report.

4.1.2.3. There shall be no discharge of oily water or oily wastes that may or may not produce a sheen on the water surface, grease, foam, or floating solids.

4.1.2.4. No wastes shall accumulate on the shoreline nor float on the receiving water surface.

##### 4.2. *Sanitary Wastes*

All sanitary wastes shall be routed through a sanitary waste treatment system. Sanitary wastes must be either:

4.2.1. Discharged to a shore-based septic system or a municipal wastewater treatment system, provided that the system is designed and capable of properly treating and handling the type and volume of sanitary wastes generated by seafood processing operations; or

4.2.2. If a USCG-licensed vessel, routed through a sanitary waste system that meets the applicable Coast Guard pollution control standards then in effect [33 CFR 159: "Marine sanitary devices"] and discharged in accordance with Coast Guard regulations. Malfunctioning and undersized systems are prohibited.

##### 4.3. *Other Wastewaters*

There shall be no discharge of any other such wastewaters that contain foam, floating solids, grease, or oily wastes which may or may not produce a sheen on the water surface, no wastes which deposit residues which accumulate on the shoreline or seafloor. Wastewaters that have not had contact with seafood processing wastes are not required to be discharged through the seafood processing waste-handling system. However, all discharges of transfer water, refrigerated sea water, and live tank water shall be discharged below the surface of any receiving waters.

##### 4.4. *State Water Quality Standards*

Discharges shall not violate Alaska Water Quality Standards [18 ACC Part 70] including, but not limited to, floating or suspended residues, dissolved oxygen, oil and grease, fecal coliform, pH, temperature, color, turbidity, and total residual chlorine.

##### 4.5. *Vessel Wastes*

Vessels must comply with 33 CFR 151 ("Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial wastes, and ballast water").

##### 4.6. *Discharge Pipe Location and Condition*

4.6.1. Process wastes from shore-based facilities or vessels discharging through stationary outfalls shall be discharged at least twenty (20) feet at MLLW below the sea surface.

4.6.2. Process wastes from mobile vessels shall be discharged at least three (3) feet below the sea surface at MLLW (except for mobile vessels that have through-the-hull discharge points).

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

#### 5.0. Monitoring

##### 5.1. *Reporting*

5.1.2. *Purpose.* Discharges shall be monitored to the extent necessary to develop and submit timely and accurate quarterly reports. (See Section 6.1.)

##### 5.2. *Seafloor Monitoring*

5.2.1. *Purpose.* The seafloor monitoring program is to determine compliance with the Alaska water quality standards for settleable residues in marine waters. Alaska Administrative Code Part 18—70.020 states that "(settleable residues) shall not \* \* \* cause a sludge, solids, or emulsion to be deposited \* \* \* on the bottom."

5.2.2. *Objective.* The seafloor monitoring program shall determine the

areal extent (in square feet) of the continuous deposit of sludge, solids, or emulsion from seafood processing wastes on the seafloor bottom that persists through a year.

5.2.3. *Applicability.* All permittees covered under this Permit shall participate in a seafloor survey at least once during the period this Permit is in effect.

5.2.4. *Method.* The seafloor survey shall include the following elements:

5.2.4.1. Areal extent in square feet of any accumulation of seafood wastes;

5.2.4.2. Description of the size of particles making up the waste pile, the percentage of particles exceeding 0.5 inch in any dimension, and kind of wastes;

5.2.4.3. Description of the methodology used by the surveyor including transects and location devices;

5.2.4.4. Description of marine fauna and flora near the survey area;

5.2.4.5. Dates, time, tidal movements, weather conditions, name and signature of surveyor, name of company, the name of the mobile vessel, and NPDES permit number(s); and

5.2.4.6. Video and/or other photographic documentation of any findings.

5.2.5. *Stationary Outfalls.* Shore-based facilities or vessels discharging through stationary outfalls shall conduct an annual survey after April 1 but no later than May 15.

5.2.6. *Mobile Vessels.* Within 18 months from the effective date of this Permit, mobile vessels that have anchored and operated in the following areas shall conduct a survey after April 1 but no later than May 15:

5.2.6.1. The survey shall include the following areas on St. Paul: approximately 0.5 nautical mile from shoreline of Lukanin Bay from Stony Point to Reef Point, Zolotoi Bay, Village Cove, English Bay from Tolstoi Point to Zapadni Point, and southwestward on the northern side of Northeast Point. Identification of where mobile vessels have been anchored for processing shall be done during the survey design to focus on the specific areas of discharge.

5.2.6.2. This requirement for mobile vessels to conduct a seafloor survey may be satisfied by arranging with others to participate in a joint survey.

5.2.6.3. If no wastes have accumulated in the designated survey areas (see Section 5.2.6.1), EPA in consultation with ADEC and the Coastal Zone Management Program may consider whether subsequent surveys by the mobile vessels will be necessary.

5.2.7. *Submittal.* The seafloor survey report signed by the diver and company

representative shall be submitted 30 days following the completion of the survey but no later than June 30 of each year.

### 5.3. *Sea Surface and Shoreline Monitoring*

5.3.1. *Purpose.* The sea surface and shoreline monitoring program is to determine compliance with the Alaska water quality standards for floating residues in marine waters. Alaska Administrative Code Part 18—70.020 states that “(floating solids, debris, foam and scum) shall not \* \* \* cause a film, sheen, or discoloration on the surface of the water \* \* \* or cause a sludge, solid or emulsion to be deposited \* \* \* upon adjoining shorelines.

5.3.2. *Objective.* The sea surface and shoreline monitoring program is to provide daily assessment during periods of operation and discharge: for the sea surface monitoring an estimate of the areal extent of continuous films, sheens, or persistent mats of foam; for the shoreline an estimate of the areal extent of deposits of seafood waste solids on the adjacent shore.

5.3.3. *Applicability.* All permittees covered under this Permit shall participate in a sea surface and shoreline monitoring program during all periods of operation and discharge.

5.3.3.1. *Shore-based facilities* shall include the harbor areas that are adjacent to their facilities as well as observations of the shorelines nearest to outfall location.

5.3.3.2. *Mobile vessels* shall conduct sea surface monitoring around and adjacent to their individual vessels.

5.3.3.3. *Shore-based facilities and mobile vessels* may participate in a joint survey of appropriate shoreline areas adjacent to where mobile vessels are anchored.

5.3.4. *Method.* This monitoring program shall include a description of the observation method and equipment used, the name of the surveyor, and points of observation. The report of positive observations shall include the date and time of observation, an estimate of the area of scum, sheen, film or foam on the sea surface, and/or the area of sludge, solids, emulsion or scum deposited on the shoreline. Photographs, video, or other visual documentation of positive observations are required.

5.3.5. *Submittal.* The report of any positive observations shall be submitted to EPA and ADEC with the quarterly report described in Section 6 and also reported as noncompliance according to Section 8.3.

5.3.6. *Waiver.* Individual monitoring days may be waived upon notification

by FAX to EPA and ADEC (see Section 6.4 below) due to conditions (e.g., weather or sea conditions) which make this monitoring hazardous to human health and safety.

## 6.0. Quarterly Reporting Requirements

### 6.1. *Schedule*

Reporting shall be on a calendar quarter basis; reports are due by the end of the month following any quarter processing occurs in the Pribilof Islands (e.g., January–March report due no later than the 30th of April).

6.1.1. *No Processing.* Permittee shall notify EPA and ADEC when no processing occurs during any quarter in the Pribilof Islands, either with the most recent quarterly report or at the end of each quarter.

### 6.2. *Facility Reporting*

6.2.1. *Mobile vessels* shall report the following:

6.2.1.1. Daily GPS log of anchored location or locations while processing; this log to be submitted in both map-charted and written form;

6.2.1.2. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood returned to the waters or otherwise disposed of (i.e., ocean disposal); and

6.2.1.3. Positive observations of the sea surface and shoreline monitoring program as described in Section 5.3. above.

6.2.2. *Shore-based facilities or vessels discharging through stationary outfalls* shall report the following:

6.2.2.1. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood and by-catch discharged through the outfall;

6.2.2.2. Positive observations of the sea surface and shoreline monitoring program as described in Section 4.3.2 above; and

6.2.2.3. Amount, type, and location of wastes disposed of by ocean dumping as described in Section 7.2.3.

### 6.3. *Signatory Requirement*

A permittee shall ensure that the quarterly report is signed by a principal officer or a duly appointed company representative according to Section 10.5.

### 6.4. *Submittal*

The quarterly reports shall be submitted to EPA and ADEC. Reports may sent via FAX or mailed to the locations below:

Environmental Protection Agency,  
Region 10, NPDES Compliance Unit

OW-135, 1200 Sixth Avenue, Seattle, Washington 98101, FAX 206-553-1280, Attn: NPDES Compliance Unit and

Alaska Department of Environmental Conservation, Attn: Major Facilities, 555 Cordova Street, Anchorage, Alaska 99501, FAX 907-269-7652, Attn: Water Permits

## 7.0. Special Conditions and Requirements

### 7.1. Discharges from Mobile Vessels

During the period of May 1 to December 1, no discharge of seafood wastes or any other wastewaters authorized by this Permit shall occur within the one-half nautical mile of the exclusion zone described in Section 2.4.2.2 except as provided by Section 7.1.1.

#### 7.1.1. Safety Exception.

Notwithstanding the provisions of Section 2.4.2.2, mobile processing vessels may anchor within the one-half nautical mile exclusion zone when conditions exist that would threaten the safety of the vessel or there is no other location that is reachable for safety of the vessel.

7.1.2. Processing and Transit in the Exclusion Zone. Mobile vessels shall make all efforts to halt discharge of seafood wastes, wastewaters including sewage, gray water, deck or processing area wash down, net washing, bilge water, and other unnecessary materials to avoid unwanted or accidental discharges. Mobile vessels shall also avoid refueling within the exclusion zone except for emergency conditions.

7.1.3. Location Reporting. When any processing vessel enters the one-half nautical mile exclusion zone, the permittee must report their location by GPS and the reason for being in the exclusion zone to each of the following: EPA—FAX (206) 553-1280 or telephone (206) 553-1846; ADEC—FAX (907) 269-7652 or telephone (907) 269-7500; St. Paul—FAX (907) 546-3194 or telephone (907) 546-3179; or St. George—FAX (907) 829-2212 or telephone (907) 859-2263; and Local harbor master/public safety office by radio.

7.1.4. Excluded Area Discharge. Mobile vessels must notify EPA and ADEC within 24 hours, either by telephone (206) 553-1846 or (907) 269-7500, respectively) or by FAX (see Section 7.1.3 above) if any discharge of seafood wastes or any other discharge authorized or not, occurs during the period of May 1 through December 1 within the one-half nautical mile exclusion zone. Any such report must conform to the requirements in Section

8.3 below, and include an official Bering Sea weather report.

### 7.2. Discharges from Stationary Outfalls

Notwithstanding the provisions of Section 2.4.2.2, the facilities previously permitted (under the Alaska Seafood General Permit AK-G52-0000 issued October 1989) to discharge from the three existing stationary outfalls on St. Paul and the one existing stationary outfall on St. George will be allowed, provided that each facility submit a complete and timely NOI and receive approval from EPA for the continuing discharge and comply with the following conditions:

7.2.1. Sea Surface and Shoreline Monitoring. There shall be no evidence of wastes on the sea surface or shoreline and that the sea surface and shoreline monitoring program is conducted according to Section 5.3 during the period of May 1 through December 1.

7.2.2. Exceedance of Discharge Levels. Discharges resulting from processing of wastes through the stationary outfalls during the period of May 1 and December 1 shall not exceed the daily projected production levels submitted in the NOI and authorized by EPA. Processing waste solids exceeding this limitation shall be barged to an acceptable ocean dumping area.

7.2.3. Ocean Disposal. Finfish and crab wastes ground to 0.5 inch and unground snail wastes and shells may be disposed of by dumping the wastes into depths of at least 45-50 fathoms and at least 7 nautical miles west of St. Paul and at least 3 miles west of St. George.

7.2.3.1. Disposal must be done while the vessel is underway. No disposal shall occur if marine mammals are observed in the disposal area.

7.2.3.2. A log shall be kept of the disposal operations and include the following information:

- dates and start/stop time of each disposal occurrence,
- description and approximate volume of the material being dumped,
- the location (GPS) where dumped, and
- notation of weather and wind conditions in the area and Beaufort Sea state.

7.2.3.3. A copy of the log is to be submitted to EPA with the quarterly report.

### 7.3. New Shore-Based Facilities

Any new applicants seeking authorization under this Permit to discharge seafood wastes and other designated wastewaters from a shore-based facility must meet the requirements of Section 2.4 or submit

the following information in a request for a waiver of Section 2.4:

7.3.1. Submit a Notice of Intent to be covered under this Permit in accordance with Section 3, including a detailed map showing the proposed facility's precise location of the outfall, engineering design of the outfall, receiving water bathymetry, any tidal or current information, surrounding upland topography and any protected water resources and special habitats.

7.3.2. Describe in detail the circumstances requiring discharges to the exclusion zone; the alternatives to discharging within the exclusion zone; and a detailed description of the nature, magnitude and duration of the seafood processing operation and its discharges.

7.3.3. Complete the Inventory of Waste Streams.

7.3.4. Develop a pollution prevention plan covering all aspects of pollution potential of the facility.

7.3.5. Develop and commit to best management practices for seafood waste minimization, water usage reduction, and pollution control.

7.3.6. Prepare a proposed seafloor, sea surface and shoreline monitoring program and an effluent sampling plan.

7.3.7. Consult (in writing) with NMFS and USFWS about areas of concerns and critical habitats.

A waiver to Section 2.4 will not be granted until after EPA consults with ADEC and other appropriate government offices to determine that the proposed discharge will comply with applicable state and federal laws and regulations and the State-approved Coastal Zone Management Plan.

### 7.4. Inventory of Waste Streams

7.4.1. Purpose. The inventory is to determine all of the waste streams generated by operating and maintaining a seafood processing facility or processing vessel that could potentially be discharged within the coastal zone of the Pribilof Islands.

7.4.2. Objective. The inventory shall identify the waste streams, which are a result of receiving and processing seafood, providing dormitory and galley services, and also the products used in the maintaining facility or the vessel. These products may include, but not be limited to, sanitizing chemicals, general cleaning detergents (including laundry and kitchen) and solvents, engine room chemicals, painting wastes, hazardous materials, machine shop solvents, and stormwater runoff. Waste reduction and pollution prevention are the ultimate objectives of this activity. The inventory shall also include the identification of environmentally safe products that

could be substituted for those that may pose a threat to the environment.

**7.4.3. Applicability.** All permittees covered under this Permit shall participate in the inventory of waste streams. This requirement is on a facility by facility or vessel by vessel basis.

**7.4.4. Schedule.** The inventory of waste streams shall be completed 90 days after this Permit is effective.

**7.4.5. Submittal.** A permittee shall submit to EPA a written summary of the waste streams examined, a list of products found in each waste stream along with any identified hazardous substance used in the facility or on the vessel, and the substitution of environmentally safe products for those identified as potentially detrimental products. This summary shall be accompanied by written certification, signed by the principal officer or a duly appointed representative of the permittee, of the completion of the inventory and the substitution or changes to more environmentally safe products.

#### **7.5. Pollution Prevention Plan and Implementation**

**7.5.1. Purpose.** Pollution prevention is to minimize any and all of the undesirable effects a processing facility or vessel may have on the environment of the water and air and the birds and animals sharing the marine and terrestrial habitats within the coastal zone of the Pribilof Islands.

**7.5.2. Objective.** Pollution prevention is for maximum reduction of waste streams including reduction of processing wastes through recycling, responsible disposal, and use and substitution of environmentally safe products when and where ever possible.

**7.5.3. Applicability.** All permittees covered under this Permit shall participate in preparing and implementing a pollution prevention plan. Companies with multiple facilities or vessels operating in the Pribilof Islands may fulfill this requirement by preparing one plan to cover their Pribilof facilities or vessels; but must certify that each facility or vessel has implemented the plan. Records of pollution prevention must be kept at each facility or on board each vessel.

**7.5.4. Schedule.** The pollution prevention plan shall be completed 120 days after this Permit is effective and implemented 180 days after this Permit is effective.

**7.5.5. Documentation.** Each facility or vessel shall have a copy of the pollution prevention plan at each facility or on board each vessel. Implementation

records shall be available to EPA and ADEC upon request.

**7.5.6. Submittal.** A permittee shall submit to EPA written certification, signed by principal officer or a duly appointed representative of the permittee, of the completion and implementation of the pollution prevention plan.

#### **7.6. Discharge Effluent Sampling**

All facilities that are authorized to discharge under this Permit shall be required to sample their discharge effluent at least once during the effective period of this Permit.

Selection of what will be sampled will be based on pollutants that may be identified through the inventory of waste streams, the known pollutants found in seafood processing and associated wastewaters, and other identified pollutants of concern. Protocols, procedures, and methods for sampling, analysis, and submittal of results will be relayed to each permittee under the requirements of 33 U.S.C. § 1318 (Request for Information).

#### **8.0. Reporting and Recording Requirements**

##### **8.1. Records Contents**

**8.1.1. Effluent Monitoring Records.** All effluent monitoring records shall bear the hand-written signature of the person who prepared them. In addition, all records of monitoring information shall include:

**8.1.1.1.** The date, exact place, and time of sampling or measurements;

**8.1.1.2.** The names of the individual(s) who performed the sampling or measurements;

**8.1.1.3.** The date(s) analyses were performed;

**8.1.1.4.** The names of the individual(s) who performed the analyses;

**8.1.1.5.** The analytical techniques or methods used; and

**8.1.1.6.** The results of such analyses.

##### **8.2. Retention of Records**

**8.2.1. Monitoring Information.** A permittee shall retain records of all monitoring information, including but not limited to, all calibration and maintenance records, copies of all reports required by this Permit, a copy of the NPDES Permit, and records of all data used to complete the application for this Permit, for a period of at least five years from the date of the sample, measurement, report or application, or for the term of this Permit, whichever is longer. This period may be extended by request of the Director or ADEC at any time.

#### **8.3. Twenty-four Hour Notice of Noncompliance Reporting**

**8.3.1. Telephone or FAX.** A permittee shall report the following occurrences of noncompliance to the NPDES Compliance Unit by telephone (206) 553-1846 or FAX (206) 553-1280 within 24 hours from the time a permittee becomes aware of the circumstances:

**8.3.1.1.** Any noncompliance that may endanger health or the environment;

**8.3.1.2.** Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in this Permit;

**8.3.1.3.** Any upset that results in or contributes to an exceedance of any effluent limitation in this Permit; or

**8.3.1.4.** Any violation of a maximum daily discharge limitation for any of the pollutants listed in this Permit.

**8.3.2. Written Report.** A permittee shall also provide a written submission within five days of the time that a permittee becomes aware of any event required to be reported under Section 8.3.1. above. The written submission shall contain:

**8.3.2.1.** A description of the noncompliance and its cause;

**8.3.2.2.** The period of noncompliance, including exact dates and times;

**8.3.2.3.** The estimated time noncompliance is expected to continue if it has not been corrected; and

**8.3.2.4.** Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

**8.3.3. Written Report Waiver.** The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by telephone or FAX.

**8.3.4. Submittal.** Written reports shall be submitted to:

U.S. Environmental Protection Agency,  
Region 10, NPDES Compliance Unit  
OW-135, 1200 Sixth Avenue, Seattle,  
Washington 98101 and  
Alaska Department of Environmental  
Conservation, Attn: Water Permits,  
555 Cordova Street, Anchorage,  
Alaska 99503

#### **8.4. Other Noncompliance Reporting**

A permittee shall document all instances of noncompliance, other than those specified in Section 8.3.1, and submit a written report with the quarterly report.

#### **9.0. Compliance Responsibilities**

##### **9.1. Duty To Comply**

A permittee shall comply with all conditions of this Permit. Any permit noncompliance constitutes a violation



of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application. A permittee shall give reasonable advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

## 9.2. Penalties for Violations of Permit Conditions

9.2.1. Civil and Administrative Penalty. Sections 309(d) and 309(g) of the Act provide that any person who violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be subject to a civil or administrative penalty, not to exceed \$25,000 per day for each violation.

### 9.2.2. Criminal Penalties:

9.2.2.1. Negligent violations. Section 309(c)(1) of the Act provides that any person who negligently violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

9.2.2.2. Knowing violations. Section 309(c)(2) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.

9.2.2.3. Knowing endangerment. Section 309(c)(3) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 303, 306, 307, 308, 318, or 405, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person that is an organization shall be subject to a fine of not more than \$1,000,000.

9.2.2.4. False statements. Section 309(c)(4) of the Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall be punished by a fine of not more than

\$10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in Permit conditions in Section 8.6 ("Bypass of Treatment Facilities") and Section 8.7 ("Upset Conditions"), nothing in this Permit shall be construed to relieve a permittee of the civil or criminal penalties for noncompliance.

## 9.3. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

## 9.4. Duty To Mitigate

A permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit that has a reasonable likelihood of adversely affecting human health or the environment.

## 9.5. Proper Operation and Maintenance

A permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by a permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of this Permit.

## 9.6. Bypass of Treatment Facilities

9.6.1. Bypass not exceeding limitations. A permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of the following sections.

### 9.6.2. Notice.

9.6.2.1. Anticipated bypass. If a permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

9.6.2.2. Unanticipated bypass. A permittee shall submit notice of an unanticipated bypass as required under Section 8.3 ("Twenty-four hour notice of noncompliance reporting").

### 9.6.3. Prohibition of bypass.

9.6.3.1. Bypass is prohibited, and the Director or ADEC may take enforcement

action against a permittee for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- A permittee shall submit notices as required under Section 9.6.2.

9.6.3.2. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in this Section.

## 9.7. Upset Conditions

9.7.1. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if a permittee meets the requirements of Section 9.7.2. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

9.7.2. Conditions Necessary for a Demonstration of Upset. To establish the affirmative defense of upset, a permittee shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

9.7.2.1. An upset occurred and that a permittee can identify the cause(s) of the upset;

9.7.2.2. The permitted facility was at the time being properly operated;

9.7.2.3. A permittee submitted notice of the upset as required under Section 8.3 ("Twenty-four hour notice of noncompliance reporting"); and

9.7.2.4. A permittee complied with any remedial measures required under Section 9.4 ("Duty to Mitigate").

9.7.3. Burden of Proof. In any enforcement proceeding, a permittee seeking to establish the occurrence of an upset has the burden of proof.

## 9.8. Planned Changes

A permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or

additions to the permitted facility whenever:

9.8.1. Alteration or Addition. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Permit.

A permittee shall give notice to the Director and ADEC as soon as possible of any planned changes in process or chemical use whenever such change could significantly change the nature or increase the quantity of pollutants discharged.

#### 9.9. Anticipated Noncompliance

A permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with this Permit.

#### 10.0. General Provisions

##### 10.1. Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

##### 10.2. Duty To Reapply

If a permittee intends to continue an activity regulated by this Permit after the expiration date of this Permit, a permittee must apply for and obtain a new permit.

##### 10.3. Duty to Provide Information

A permittee shall furnish to the Director and ADEC, within the time specified in the request, any information that the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. A permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this Permit.

##### 10.4. Other Information

When a permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly

submit the omitted facts or corrected information.

#### 10.5. Signatory Requirements

All NOIs, reports or information submitted to the Director and ADEC shall be signed and certified as follows:

10.5.1. NOIs. All NOIs shall be signed as follows:

10.5.1.1. For a corporation: by a principal corporate officer.

10.5.1.2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

10.5.1.3. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

10.5.2. Required Reports. All reports required by this Permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

10.5.2.1. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and

10.5.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

10.5.3. Changes to Authorization. If an authorization under Section 10.5.2.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 10.5.2.2 above must be submitted to EPA and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.

10.5.4. Certification. Any person signing a document under this Part shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### 10.6. Availability of Reports

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with this Permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

#### 10.7. Inspection and Entry

A permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

10.7.1. Enter upon a permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

10.7.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

10.7.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

10.7.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

#### 10.8. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties to which a permittee is or may be subject under Section 311 of the Act.

#### 10.9. Property Rights

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

#### 10.10. Severability

The provisions of this Permit are severable. If any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of

this Permit, shall not be affected thereby.

#### 10.11. Transfers

This Permit may be automatically transferred to a new permittee if:

10.11.1. The current permittee notifies the Director at least 60 days in advance of the proposed transfer date;

10.11.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

10.11.3. The Director does not notify the existing permittee and the proposed new permittee of any intent to modify, or revoke and reissue the permit.

10.11.4. If the notification from the Director (Section 10.11.3.) is not received, the transfer is effective on the date specified in the agreement between the existing and new permittee (Section 10.11.2).

#### 10.12. State Laws

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

#### 10.13. Reopener Clause

10.13.1. This Permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under §§ 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Act, as amended, if the effluent standard, limitation, or requirement so issued or approved:

10.13.1.1. Contains different conditions or is otherwise more stringent than any condition in this Permit; or

10.13.1.2. Controls any pollutant or disposal method not addressed in this Permit.

10.13.2. This Permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable. This Permit may be reopened to adjust any effluent limitations if future water quality studies, waste load allocation determinations, or changes in water quality standards show the need for different requirements.

#### 11.0. 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 wastes means materials discharged from showers, sinks, safety showers, eye-wash stations, hand-wash stations, galleys, and laundries.

EPA means the United States Environmental Protection Agency.

Exclusion zone means within one-half nautical mile of areas of special concerns.

Garbage means all kinds of victual, domestic, and operational waste, excluding fresh fish and part thereof, generated during the normal operation and liable to be disposed of continuously or periodically except dishwater, gray water, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

GPS means Global Positioning System.

Gray water means galley, bath and shower wastewater.

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.

Poor flushing means average currents or turbulence of less than one-third

(0.33) of a knot at any point in the receiving water within 300 feet of the outfall.

Sanitary wastes means human body waste discharged from toilets and urinals.

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).

[FR Doc. 96-2224 Filed 2-2-96; 8:45 am]

BILLING CODE 6560-50-P