Response to Comments NPDES 900-J General Permit Renewal

By: Tiffany Yelton Bram
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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

State of Oregon
Department of Environmental Quality

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Table of Contents

1. Overview

The Oregon Department of Environmental Quality (DEQ) prepared a draft permit to renew the existing version of the 900-J permit, last issued in 2006. The 900-J is a general permit that covers discharges from seafood processors to waters of the state of Oregon. General permits are developed to apply to very similar processes and wastewaters. They are not customized to a specific facility the way an individual permits is—individual permits apply to very specific locations and processes and can address situations a general permit cannot. A first round of public comment closed April 27, 2018 after DEQ received requests to extend the comment period from several interested parties. DEQ scheduled three public hearings to allow citizens and interested parties the opportunity to provide written and verbal comments for the 900-J permit. These were held March 14, 2018 in Newport, March 15, 2018 in Coos Bay, and March 19, 2018 in Astoria, Oregon.

A new draft of the permit was put on public notice March 25, 2019 and the comment period closed, May 10, 2019. DEQ held a public hearing on May 7, 2019.

There were 18 separate written comment documents and 4 verbal comments submitted during the 2019 public notice period. The following table lists the commenter, who they represent, and assigns a reference number to them. That reference number is used in this document to identify the source of a comment.

2. List of Commenters

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
1	Landauer	Mark	Oregon Public Ports Association/ Executive Director	727 Center St NE	Salem	OR/97301
2	Ismond	Alan	Aqua-Terra Consultants	14841 SE 54th St.	Bellevue	WA/98006
3	Griffin	Jeff	Port of Bandon/Port Manager	PO Box 206	Bandon	OR/97411
4	Rep. David Brock Smith, Sen. Betsey Johnson, Rep. Caddy McKeown, Sen. Arnie Roblan, Rep. David Gomberg, Sen. Dallas Heard, Rep. Brad Witt, Rep. Tiffiny Mitchell		Oregon Coastal Caucus	900 Court Street NE	Salem	OR/97301
5	Plybon	Charlie	Surfrider Foundation/Oregon Policy Manager	PO Box 719	South Beach	OR/97366
6	Bowles	Edward	OR Department of Fish and Wildlife/ Fish Division Administrator	4034 Fairview industrial Drive SE	Salem	OR/97302

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
7	Poulsom	Susan	USEPA Region 10/Acting NPDES Permitting Section Manager	1200 Sixth Ave, Suite 155	Seattle	WA/98101
8	Miles	Norman	Self	Via email		
9	Mireles DeWitt	Christina	Seafood Research and Education Center Coastal Oregon Marine Experiment Station/Director	2001 Marine Drive	Astoria	OR/97103
10	Ismond	Alan	California Shellfish/Consultant	P.O. Box 162	Hammond	OR/97121
11	Ismond	Alan	DaYang/Consultant	45 Pier 2 # B	Astoria	OR/97103
12	Steele	Lori	West Coast Seafood Processors Association/Executive Director	650 NE Holladay St, Suite 1600	Portland	OR/97232
13	Vileisis	Ann	Kalmiopsis Audubon Society/President	PO Box 1265	Port Orford	OR/97465
14	Little	Amber	Pacific Seafood—Charleston LLC /Environmental Compliance Coordinator	16797 SE 130th Ave	Clackamas	OR/97015
14	Little	Amber	Pacific Seafood -- Warrenton /Environmental Compliance Coordinator	16797 SE 130th Ave	Clackamas	OR/97015
14	Little	Amber	Pacific Seafood—Tillamook /Environmental Compliance Coordinator	16797 SE 130th Ave	Clackamas	OR/97015
14	Little	Amber	Pacific Seafood Newport /Environmental Compliance Coordinator	16797 SE 130th Ave	Clackamas	OR/97015
15	Orr	Elizabeth	Self	PO Box 443	Scotts Mills	OR 97375
Oral Comments from May 7, 2019 Public Hearing						
O1	Ismond	Alan	Aqua-Terra Consultants	14841 SE 54th St.	Bellevue	WA/98006

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
O2	Steele	Lori	West Coast Seafood Processors Association/Executive Director	650 NE Holladay St, Suite 1600	Portland	OR/97232
O3	Hammer	Steve	SLR/Principal Engineer	1800 Blankenship Road, Suite 440	West Linn	OR/97068
O4	Holmdahl	Brandii	Bornstein	9 Portway Street	Astoria	OR/97103

3. Response to Comments

Comments grouped with similar comments from different commenters to provide a more concise document. The comments are organized into as follows:

1. General Comments
2. Comments on the permit
3. Comments on the permit fact sheet
4. Comments or questions related to how an individual permit may be different than the general permit for the same facility

The full set of comments in their original form can be provided upon request.

DEQ thanks all the commenters for the time and effort that they put into preparing comments on this draft permit. The comments gave us information to improve the permit and fact sheet.

3.1 General Comments

Comment: Property owners, like ports, have the responsibility to ensure that operators are in compliance with State and Federal laws and regulations, but sometimes lack the visibility that regulating agencies have with regard to permit status. We recommend that DEQ notify property owners 30 days prior to the expiration or potential revocation of a 900-J permit that is held by their tenant(s). The property owner should then have the opportunity to assume the permit and remove the operator so as to maintain the marketability of the property. (Ref Nbr 1)

> ***DEQ Response:*** DEQ is responsible for issuing permit coverage to the facilities that generate and discharge wastewater. Some facilities may own their land and building while others may lease or rent. If the property owner wants to assure that their tenants have appropriate permit coverage, stay in compliance with those permits and wants the permits transferred to them when the facility leaves or goes out of business that could be done through a tenant agreement. DEQ does not have the means to research and notify property owners of their tenant's plans to let coverage expire or terminate. No change was made to the permit or fact sheet as a result of this comment.

Comment: Compliance with the limits proposed in the 900-J permit continues to preclude the recycling and recovery of usable byproduct from seafood processing operations. Unfortunately, the chemical-

treatment systems necessary to accommodate exceedingly strict permit requirements in this proposed rule eliminate such productive uses for byproducts by transforming them from useable organic material into chemical-sludge that can only be disposed of in landfills. Converting the resource into a byproduct that can only be sent to a landfill cannot be considered resource reuse, recycling, or recovery. (Ref Nbr 4)

Comment: We reiterate our concerns about challenges associated with maximizing recycling and recover of usable byproduct under the limits and restrictions proposed in the draft 900-J permit. Over the past two decades, the Environmental Protection Agency (EPA) and other state regulatory bodies have increasingly focused on promoting concepts of recycling, reuse, and sustainability, which is particularly salient for the seafood processing industry. Unlike other industries, effluent from seafood processors does not contain toxic chemicals with the exception of chemicals needed for wastewater compliance purposes. Moreover, unlike other industries, byproducts associated with seafood processing continue to have nutritional and commercial value. Unfortunately, the chemical-treatment systems necessary to accommodate exceedingly strict permit requirements eliminate such productive uses for byproducts by transforming them from useable organic material into chemical-sludge that can only be disposed of in landfills. Converting the resource into a byproduct that can only be sent to a landfill cannot be considered recycling or resource recovery. DEQ should more explicitly address this issue and should consider providing incentives to promote resource reuse, recycling, and recovery in the final 900-J permit. Working with an Industry Advisory Panel could be very beneficial to achieve objectives related to maximizing recovery, reuse, and recycling. (Ref Nbr 12)

Comment: Over the past two decades, EPA and DEQ have increasingly focused on promoting the concepts of recycling, reuse, and sustainability in implementing its federal regulatory mandates. The emphasis on promoting full utilization of resources stems from an understanding that limiting waste by increasing reuse and recovery serves both environmental and economic ends. As waste management experts have explained, the "[r]ecovery of usable materials is an indirect means of reducing a waste load, provided the recovery process does not involve the production of products or the use of materials that are even more difficult to handle." Lawrence K. Wang et al., Treatment of Seafood Processing Wastewater, Flotation Technology, 572 (2010).

Focusing on reusing and recovering natural resources is particularly salient for the seafood processing industry. In the rulemaking for Alaskan seafood processing ELGs, EPA emphasized the importance of the by-product market for making full use of Alaska's seafood resources. EPA explained that the seafood by-product market and associated technologies have "reduce[d] waste management costs by more completely utilizing an important natural resource." 78 Fed. Reg. 66,916, 66,921 (Nov. 7, 2013) (emphasis added). In the same vein, many experts tout the particular resource recovery potential of the seafood processing industry. See, e.g., K. Jayathilakan et al., Utilization of byproducts and waste materials from meat, poultry and fish processing industries: a review, 49 J. Food Sci. Tech. 288-89 (June 2012) (highlighting fish processing as an industry with a high potential for converting raw materials into useful products). Experts have concluded, "[i]n the fish processing industry, regulated entities and government agencies agree that an important area of emphasis is the transformation of fish wastes into marketable byproducts." Wang et al. at 573.

DEQ's Draft Permit contravenes such policies and their focus on overall sustainability. First, as noted, effluent from seafood processing facilities does not contain toxic chemicals; it consists of waste material from processing food intended for human consumption. Even so, the Draft Permit adopts untenable permit limitations that fail to reflect the true characteristics of seafood processing wastewater and prevent the reuse of byproducts that otherwise would maximize socio-economic and environmental benefits. This is contrary to the nation's regulatory goals of encouraging sustainability across all industries.
Second, unlike other industries, the byproducts associated with seafood processing continue to have nutritional and commercial value. Byproducts contain high levels of essential micronutrients such as

vitamins A, D, B, particularly B-12, as well as minerals such as calcium, phosphorous, iron, zinc, selenium, and iodine. In addition to micronutrients, byproducts also contain high quality proteins and lipids with long-chain omega-3 fatty acids.

The nutritional value of such byproducts can be captured by converting fish "waste" into useable fish protein concentrates, fish bone meals, marine oils, shellfish meals, and liquid fish fertilizers. These products can be used for improving the quality and value of pet food, aquaculture diets, and animal feeds. Fish and shellfish-based meals can also be used as organic fertilizers. The parts of fish that are considered byproducts can constitute as much as 70% of the fish.

The dissolved air floatation (DAF) treatment systems necessary to meet exceedingly strict effluent limits eliminate the productive uses of these byproducts by transforming them from useable organic material into chemical-sludge that can only be disposed of in landfills, where such waste will degrade producing methane, a greenhouse gas. Eliminating the nutritional and commercial value of such "waste" through chemical treatment forgoes significant socio-economic and environmental benefits.
DEQ's myopic focus on rigid water quality permit parameters undermines the modern focus on recovering usable materials and limiting the overall waste load. Meaningfully collaborating with industry via a proposed industry advisory panel could develop creative, holistic solutions that focus on overall sustainability, rather than promoting creation of new chemical-sludge loads that will only add to our already overcrowded landfills. (Ref Nbr 14)

Comment: DEQ needs, must better address the need to promote recycling and the recovery of re-usable by-product. Especially in an industry where almost all of the by-product could be re-used and an industry that does not use chemical treatment in order to process. Converting our resource into a by-product that must be sent to a landfill is not considered promoting re-use, Recycling and recovery. DEQ is creating an environmental problem with this permit which is implementing regulations to regulate an industry that isn't causing an environmental problem. (Ref Nbr O2)

> ***DEQ Response:*** Once wastewater enters a wastewater treatment system, it has exited the clean processing line and has likely moved over the work space floor and drain system to be conveyed to the treatment system. It will have mixed with whatever is on the floor or in the conveyance system. DEQ agrees with and supports the concept of reducing waste and finds that in the case of seafood processing, recovering all usable portions of the seafood *before* they enter the wastewater treatment system provides the opportunity for reuse and recovery and reduces the treatment needed by the wastewater that enters the wastewater treatment system. This permit in no way precludes the recovery of seafood before it enters the wastewater system. No change was made to the permit or fact sheet as a result of this comment.

Comment: So maybe what we need to do is rather than just mixing, matching, blending stuff, coming up with numbers, we may want to take another look at mixed-species operations. I realize it's a huge undertaking but realize that what we're going now is setting up the industry for failure. We're' setting up the industry for failure because we're setting limits and we don't know if we can meet them. We, even the regulators don't know if we can meet them because they're not based on characterizing the effluent. And I realize in characterizing the effluent from mixed species is gonna be a smorgasbord from 6,000 gallons to the day to 600,000. …..the EPA used statistical analysis on all the single-species things. We may want to look at a statistical approach for a multi-species operation. (Ref Nbr O1)

> ***DEQ Response:*** For purposes of this general permit, DEQ has provided a calculator that will accounts for the mix of species and processes. This calculator allows DEQ to take a tool like a general permit, which is intended to apply to a very similar set of processes and effluent, and provide some level of customization. For a more detailed characterization of a facilities' effluent,

we ask that the facility apply for an individual permit. No change was made to the permit or fact sheet as a result of this comment.

Comment: The EPA recommends edits in this section (Processes Covered, page 7 of permit) and throughout the proposed permit to improve clarity and promote enforceability of the permit. For example, DEQ should remove the words "generally", "typically" from this section, and replace "usually" with "may" where such words contribute to ambiguity. (Ref Nbr 7)

DEQ Response: DEQ change these words in the permit.

Comment: Permit, Page 24, Comingled Stormwater. Comingled is misspelled throughout this section. Commingled is the correct spelling. (Ref Nbr 7)

DEQ Response: DEQ corrected this spelling error in both the permit and fact sheet.

Comment: I am writing in response to an article in the Statesman Journal about the potential of DEQ relaxing of wastewater regulations from coastal seafood processing plants. I am against any such action. Politicians don't always act for the best interest of the environment so they can keep their local constituents happy and the campaign contributions coming in from corporate interests. You are in a position to rise above that and do the right thing for the well being of our precious and fragile water ecosystems. With human caused global warming and mass extinction in process, in can no longer be business as usual. So I am asking you to please not weaken any restrictions on wastewater into our waterways. Preserving the planet must take precedence over economic interests. Thank you for your work in conserving Oregon for our grandchildren's children. (Ref Nbr 8)

Comment: Wastewater regulation is not our area of expertise, but last summer several of our members experienced firsthand disgusting and environmentally degrading pollution from a local seafood processing facility operating under a "letter of discretion" rather than an official DEQ water quality permit. That experience gives us reason to scrutinize this proposed permit with the aim of addressing the specific problems at this site with which we do now have some degree of familiarity. Also, our group does have a long commitment to advocating for the outstanding values of Chetco River, which flows from wild headwaters to the ocean at Brookings. A general permit must apply to all seafood processors in the state, despite the fact that each one is situated in a context with very specific environmental conditions. Although we appreciate DEQ's designation of "tiers" as a way to address differences in operational scale, we remain concerned that some specific environmental conditions in the Chetco estuary (and perhaps in other coastal estuaries) are not sufficiently addressed by this general permit. (Ref Nbr 13)

Comment: Re: reducing pollution standards for discharge at fish canneries. It would be a step backwards to weaken pollution regulations for seafood processors. Every summer Oregon’s beaches are closed because of water pollution, and to allow additional offal to be dumped offshore can only add to the problem. Your job is to be concerned about the health of Oregonians and not to boost economics. (Ref Nbr 15)

DEQ Response: DEQ did not weaken the 900-J permit. All NPDES permits must comply with anti-backsliding and antidegration rule requirements. DEQ increased monitoring requirements for processors covered by this permit. DEQ also set benchmarks for temperature, chlorine, and ammonia to be protective of aquatic life and bacteria benchmarks for bacteria to protect recreational uses and shellfish harvesting, which were not in the 2006 900-J, while processors collect additional data to determine the presence of these pollutants in their discharge. The 900-J also continues to implement federal requirements for the seafood industry and DEQ specified reporting methods to ensure that these requirements are implemented consistently throughout the

state. Beach closures have not been associated with discharges regulated by the 900-J. No change was made to the permit or fact sheet as a result of this comment.

Comment: DEQ must work collaboratively with the seafood processing industry to resolve all significant compliance problems identified by the industry prior to finalizing the 900-J permit, especially requirements that are simply not feasible for facilities from a logistical/operational perspective. WCSPA member companies have identified specific operational/compliance problems associated with requirements contained both drafts of the 900-J permit and have formally communicated their concerns to DEQ; these problems must be resolved prior to finalizing the 900-J permit. As we have suggested in the past, convening an Industry Advisory Panel (AP) to work with DEQ would be an effective way to address these issues and find solutions in a timely manner. We maintain that an Industry AP would help DEQ resolve compliance problems associated with the complexity and frequency of proposed monitoring/sampling requirements. (Ref Nbr 12)

Comment: We would like to see DEQ work with the industry to address the compliance challenges associated with the proposed monitoring and reporting requirements. And to reduce the complexity of the sampling requirements. We would also like to see the frequency of the requirements and certainly some of the compliance issues related to the water quality limits. (Ref Nbr O2)

> ***DEQ Response:*** In renewing the 900-J, DEQ engaged the seafood industry in both group and individual settings. The information shared has helped shape this permit. At the same time, an NPDES permit is required to be developed in compliance with federal and state rules, including the analysis of the pollutants present and a monitoring frequency necessary to determine permit compliance. The listing of the events and meetings DEQ and industry held are found on our website. No change was made to the permit or fact sheet as a result of this comment.

Comment: The Draft Permit does not adequately consider the limited environmental impact that arises from seafood processing. DEQ has not demonstrated that wastewater discharges from seafood processing facilities in Oregon are causing environmental harm. Without citing specific incidents of demonstrable environmental harm resulting from the operations of seafood processing facilities, the impetus behind many of the proposed Permit conditions is unclear. (Ref Nbr 14)

> ***DEQ Response:*** State water quality standards adopted by the Environmental Quality Commission in Oregon Administrative Rule for specific pollutants consider the environmental impact of the pollutant. Seafood processing wastewater contains pollutants that may be harmful to the environment. For example, as discussed in the fact sheet, chlorine and ammonia can be toxic to aquatic life at very low levels. No change was made to the permit or fact sheet as a result of this comment.

Comment: The Fisheries Enhancement provision should be reinstated under emergency situations. The disposal of fish offal is dependent on a very limited number of rendering plants that are running at capacity. A mechanical breakdown or a fuel shortage could create a short term disposal problem for the seafood processing industry. This, in turn, would create a short term shut down of the industry resulting in millions of dollars of lost wages and sales. Historical monitoring data has indicated that the introduction of seafood nutrients into the appropriate receiving environment has not created environmental issues. (Ref Nbr 11)

Comment: Coverage for the Oregon Department of Fish and Wildlife ("ODFW") Fisheries Enhancement Program has also been removed from the Draft Permit. DEQ has previously cited concerns for hypoxic conditions and ocean acidification as primary factors affecting removal of the Fisheries Enhancement Program from the Draft Permit, but no documentation or other scientific evidence has been presented by

DEQ in support of this decision. Hypoxic conditions in the Pacific Ocean off the coast of Oregon are not caused by industrial wastewater discharges; the cause is upwelling of low oxygen and nutrient rich water (”Frequently Asked Questions about Hypoxia and the Central Oregon Coast ‘Dead Zone’”, Partnership for Interdisciplinary Studies of Coastal Oceans, Oregon State University, October 30, 2006). During the March 19, 2018 public meeting in Astoria, DEQ stated that the extent of consultation with ODFW in support of this decision was documented solely by email and indicated that a formal process was not conducted for making the determination that the Fisheries Enhancement Program causes adverse environmental impact. As such, the decision was reached without public involvement or comment, and there is no scientific substantiation for DEQ’s decision to discontinue the long-standing program in the public record. (Ref Nbr 14)

> ***DEQ Response:*** DEQ determined that the discharge of untreated seafood waste to either freshwater or the ocean with an outright exemption from state and federal requirements with no additional analysis was no longer appropriate in the 900-J. Permission for these activities must be reviewed by other appropriate agencies (e.g., Oregon Dept. of Fish and Wildlife, Oregon Dept. of Land Conservation and Development) in addition to DEQ. No change was made to the permit or fact sheet as a result of this comment.

Comment: In order for the company to make an informed decision as to whether to apply for the General Permit or an Individual Permit, DEQ needs to provide answers to the following questions:

> If the company applies for an Individual Permit will DEQ consider new TBELS that are not included in the 0900-J?
> Will there be benchmarks or a compliance schedule be used for meeting Water Quality standards and the Technology based standards?
> Will the Water quality based effluent limitations be based on the site specific mixing zone study?
> Which limits will be applied at end of pipe vs. the edge of the mixing zone?

> ***DEQ Response:*** If a processor applies for an individual permit, DEQ will review the application and determine the applicability of the federal Effluent Limitation Guidelines during permit development. DEQ cannot change the federal ELGS for seafood processing. DEQ may set benchmarks or use a compliance schedule for water quality-based effluent limits (these tools cannot apply to technology based effluent limits). These decisions, however, cannot be made in the absence of a complete individual permit application. For an individual permit, DEQ would require a site-specific mixing zone study to inform the development of water quality-based effluent limits. In this case, limits would be set at the end of the pipe based on compliance with Water Quality standards at the regulatory mixing zone.

Comment: If DEQ implements a permit that puts the majority of the industry into non-compliance on day one then the agency has not done its job. The agency's job is to establish scientifically based limits within a permit that will allow the industry to continue to operate over the long term in a sustainable manner that reduces and minimizes impacts on the environment. (Ref NbrO2)

> ***DEQ Response:*** DEQ is required by state and federal regulation to issue National Pollutant Discharge Elimination System permits like the 900-J in compliance with state water quality standards. The 900-J is scientifically based and addresses known pollutants in seafood processing wastewater. DEQ included limits based on applicable federal effluent limit guidelines and benchmarks for pollutants that are of concern to aquatic life, shellfish harvesting, and recreational use of waterways receiving this wastewater. State water quality criteria for these pollutants have been adopted into Oregon Administrative Rule after agency review and public scrutiny over the science indicating that these pollutants are harmful. DEQ has tools to ensure that permittees are not in non-compliance on day one. For example, where data was insufficient but showed the

presence of a pollutant in seafood processing wastewater, DEQ used benchmarks rather than limits to allow the processors to gather more information and, if needed, change practices to comply with potential future permit limits. DEQ may also use compliance schedules for water quality-based effluent limits to allow a permittee time to come into compliance with a new water quality-based limit. No change was made to the permit or fact sheet as a result of this comment.

3.2 Permit Comments

3.2.1 Sources Covered and Application Requirements for Seafood Processors

3.2.1.1 New Discharger to Section 303 (d) listed waters

Comment: The proposed permit requires potential new dischargers into Category 5 waters needing a TMDL to demonstrate that the discharge does not contain the pollutant of concern for which a water body is listed, and if so, to demonstrate that the discharge will not cause an exceedance of water quality standards. Without further information, it is unclear how DEQ will solicit necessary information from potential new dischargers and how DEQ will decide that a new discharger has adequately demonstrated that an exceedance will not occur. As the permitting authority, DEQ is responsible for evaluating the impairment status of waters for each discharge and can only authorize new discharges consistent with 40 CFR 122.4(i).1 DEQ should consider allowing an opportunity for public comment before authorizing any new discharges to impaired waters. (Ref Nbr 7)

> ***DEQ Response:*** DEQ will apply the most recent EPA approved 303(d) list when new dischargers register for coverage. Prior to determining whether coverage under the 900-J is allowable, DEQ will request that the applicant submit additional information to demonstrate that the discharge will not cause an exceedance for the parameter in question. DEQ will evaluate this information consistent with its NPDES permitting protocols. DEQ may grant or deny coverage under this general permit. DEQ will not be seeking public comment when processors are granted coverage under this permit.

Comment: Under this section of the permit, DEQ references use of DEQ's 2012 303(d) list for category 5 and 4 water quality limited waters. However, the fact sheet (page 13) indicates that DEQ will use "the most current EPA-approved 303(d) list for evaluating new dischargers." The EPA recommends reconciling the language in the permit with the fact sheet so that in both instances, the expectation is that the most current list 303(d) list (i.e. the list currently in effect for Clean Water Act purposes) should be used to assess new discharges. (Ref Nbr 7)

> ***DEQ Response:*** DEQ changed the language to “the most current EPA-approved 303(d) list for evaluating new dischargers" in both the permit and fact sheet.

3.2.1.2 Oregon NPDES permit not required

Comment: Under part b. of this section, a permit is not required if live seafood is stored under conditions where seawater is recirculated and discharged to the same water body so long as "the discharge does not contribute to an exceedance of water quality standards." The EPA recommends that DEQ clarify and explain how, specifically, a registrant can successfully demonstrate that water quality standards will not be exceeded. (Ref Nbr 7)

DEQ Response: We are not requiring facilities that only have activities listed in section 3, Oregon NPDES Permit Not Required, to register. As a result, we will not know if someone is doing this activity or not. DEQ will follow up on complaints related to these activities. No change was made to the permit or fact sheet as a result of this comment.

3.2.1.3 Processes covered

Comment: On Page 7, the Draft Permit states "Seafood processing operations covered under this permit generally offload or receive raw and frozen seafood from harvesting (e.g., fishing, trapping, netting) or from intermediate storage." In Table 1, offloading of seafood that results in a discharge is listed under B11. as a covered process. However, receiving of seafood that results in a discharge is not listed. Please clarify if only offloading (and not receiving) of seafood that results in a discharge is covered. (Ref Nbr 14)

DEQ Response: DEQ has determined that if offloading of seafood occurs without any processing on site and no discharge, that activity does not require permit coverage. Offloading that does result in a discharge, such as the emptying of water in vessel's hold, is a process covered under the permit, regardless of whether the seafood is just passing through on its way to another location or processed on site. No change was made to the permit or fact sheet as a result of this comment.

3.2.1.4 Application Requirements

Comment: According to the proposed permit, for existing registrants, DEQ will notify registrants if additional information is needed for coverage. Given that the current 2006 administratively-continued permit expired in 2011, the EPA suggests that DEQ direct all applicants, including existing registrants, to submit a new NOI so that the most up-to-date information is available for consideration upon registration for the permit. (Ref Nbr 7)

DEQ Response: DEQ will request additional information as needed through direct communication with each applicant awaiting coverage under the renewed 900-J. No change was made to the permit or fact sheet as a result of this comment.

3.2.1.5 Recreational Sportfish Cleaning Stations

Comment: Concern that 2019 draft of 900-J could be interpreted to establish monitoring requirements for Recreational Sportfish Cleaning Stations. Monitoring would make the operation of the stations not economically feasible. Recommend clarifying on page 9 that Recreational Sportfish Cleaning Stations shall comply with Schedule F but are not required to comply with the monitoring requirements referenced there or in Schedule B. (Ref Nbr 1)

DEQ Response: Please see the permit for change to this section. Much of Schedule F must apply to these facilities. The language has been changed to "Comply with applicable Schedule F conditions of this permit".

Comment: Several public ports have attained permission from DEQ and from ODFW to dispose of fish carcasses instream so as to carry the waste to open ocean where it can be absorbed into the ecosystem naturally. This type of disposal is generally done in the vicinity of a river bar during an ebb tide to disperse the waste in a manner that is generally inconspicuous, and prevents deposits, nuisance odors, or decreased aesthetics of that water body. Ports have expressed concern that the new 900-J Permit would require them to either stop that activity or apply for individual coverage.

Disposal of carcasses from the cleaning stations can be accomplished in a manner that is consistent with State and Federal requirements and should be clearly delineated as such. We recommend adding the term "fish cleaning residuals" as it applies to Recreational Sportfish Cleaning Stations in the "Definitions" Section of the 900-J. We also recommend clarifying on page 9 that the solid waste from the cleaning stations can be disposed of by any means that is in compliance with applicable State and Federal Law. These recommendations are an attempt to define and separate the disposal of solid waste from the 900-J, which deals with wastewater. (Ref Nbr 1)

> ***DEQ Response:*** It is not solely within DEQ's authority to approve the practices of disposing of fish carcasses by placing them in the water. This permit focusses on processes within DEQ authority. A definition of Fish Cleaning Residuals has been added to the permit. This permit does not prohibit the disposal of Fish Cleaning Residuals as solid waste. The definitions section has be edited as a result of this comment.

Comment: The proposed language for the Recreational Sportfish Cleaning Stations, Section 2. Permit Requirements does a good job to standardize and streamline the current 900-J permit. It does, however, appear to disallow a practice that was previously authorized by DEQ and ODFW specific to certain Ports, including the Port of Bandon. The current rule allows for a joint DEO/ODFW approval process for certain situations. The process provides needed flexibility for ports and charter operations like we have in Bandon. The specific language in the current 900-J permit, under Section 6, Fisheries Enhancement Program, subsection e., creates this alternative if the facility cannot meet one or more of the conditions. In our case we do not cut up residuals due to cost and odor prohibitions.

The Port of Bandon is currently authorized by DEQ through recommendations of ODFW to discharge whole fish waste at sea or at a point inside the breaking bar when the bar is not crossable, during outgoing tides, with some additional conditions. The recommendation from ODFW is attached and the May 11, 2010 written authorization from DEQ is also attached.

The Port partners with Prowler Charters to implement this process and it works very well for us. We would very much prefer to continue doing this. The alternative is placing fish carcasses in dumpsters where they end up creating odor problems downtown and ultimately end up in the landfill.

Please advise if the alternative allowance is envisioned to continue under the new rule and if not, we ask that you please consider bringing language back into the new rule that will allow pre-existing authorized uses like ours to continue. (Ref Nbr 3)

> ***DEQ Response:*** It is not solely within DEQ's authority to approve the practices of disposing of fish carcasses by placing them in the water. This permit focusses on processes within DEQ authority. This permit does not prohibit facilities from seeking approvals from the appropriate agency for alternative disposal. No change was made to the permit or fact sheet as a result of this comment.

Comment: We have heard from a number of ports across the state that have significant concerns about how the rules proposed in the 900-J permit will affect recreational fish cleaning stations operated by our ports. Many ports have indicated they will likely need to shut down these cleaning stations, as the cost and logistics associated with obtaining this permit will be too onerous. (Ref Nbr 4)

DEQ Response: DEQ asks that ports and other facilities that want to provide Recreational Sportfish cleaning stations talk with DEQ staff familiar with this permit to help understand how it applies. The monitoring portion of Schedule F does not apply which may have caused some concern. No change was made to the permit or fact sheet as a result of this comment.

Comment: This section lacks clarity. The section should begin by indicating that the operator of commercial stations and recreational stations allowing greater than 500 pounds of fish cleaning residuals per day (amount of discarded/discharged fish) must apply for coverage under the general permit. While the provisions in this section are reasonable, it is not clear who is responsible for the actions. For example, the operator would be responsible for limiting the mass of residuals discharged, inspections and operation and maintenance of the station, and the user of the station would be responsible for cutting or grinding and dispersing the residue into the receiving water. The permit should clarify responsibilities. Additionally, the permit should require the operator to post or otherwise provide information about the requirements of the permit and DEQ contact information. DEQ may not be able to enforce the permit for these recreational stations without providing this information from a due process perspective. (Ref Nbr 7)

DEQ Response: The owner or operator is ultimately responsible for the Recreational Sportfish cleaning stations. DEQ is allowing the owner or operator to determine the best way to communicate expectations to users of the stations. No change was made to the permit or fact sheet as a result of this comment.

3.2.2 Schedule A Waste Discharge Requirements

3.2.2.1 Technology Based Effluent Limits

Comment: For the most part, the tech-based effluent limitations have not changed since 2006 – i.e. standards didn't become more stringent to account for potential technological improvements. As an industry, thirteen years is a long time to not innovate and advance technology for more efficient and cleaner discharge. If the purpose of tech-based standards is to allow for industry time and adaptation to improved effluent standards, then shouldn't there be some improvement in the last 13 years? (Ref Nbr 5)

DEQ Response: When writing an NPDES permit, first technology based effluent limits are applied and then water quality based effluent limits. Where a Water Quality based effluent limits is more stringent than a technology based effluent limit for the same pollutant, the more stringent one applies. Water quality based effluent limits change based on the development and updating of Water Quality standards. The application of current Water Quality standards in the water quality based effluent limits reflect changes made over the past 13 years. No change was made to the permit or fact sheet as a result of this comment.

Comment: While the general permit lists specific narrative criteria for recreational fish stations to prevent "deposits, nuisance odors, or decreased aesthetics," it does not specify any such specific narrative criteria for discharges by industrial seafood processors. We think it's important for the permit to address the visual aesthetics and odors of industrial seafood processing discharges too, especially when seafood processors are located in areas near where tourists visit, eat outdoors on picnic tables, and enjoy waterfront recreation. Last summer it was reported that the plume of discharge degraded aesthetics both with its visual diminishment of clean water and also with

stinky odors that made it unpleasant to be down at the harbor, where there are restaurants. I've heard the visually repulsive waste described as a "pink tide" because it colors the water so markedly. (Ref Nbr 13)

DEQ Response: Limits in this permit on Total Suspended Solids (TSS) should have the effect of limiting visible solids from the discharge which should have an effect on odor and visual nuisance's too, if the limit is complied with. No change was made to the permit or fact sheet as a result of this comment.

3.2.2.2 Temperature

Comment: Temperature benchmark inadequate to address high-risk periods. We are concerned that the proposed permit's temperature benchmark criteria is insufficient to address discharges during certain high-risk periods with elevated temperature in the Chetco river's estuary. For most of the year, the Chetco River's flows and tides may provide sufficient movement of water (flushing) and dilution to meet the permit requirements and aims. However, there are some periods in summer when flows in the Chetco River drop to very low levels creating high risks for aquatic life—because of both elevated temperatures and insufficient dissolved oxygen in the water during these times. In recent drought years, the Chetco has dropped in late summer to unprecedently low flows, exacerbating problems with elevated temperature and low dissolved oxygen. Last August, people observed seafood processing discharge that was released into the boat basin, which empties into the Chetco estuary, but owing to low flows and slack water, it was not diluted and persisted as a visible and noxious plume. (Ref Nbr 13)

DEQ Response: DEQ does not have much data on the temperature of seafood processing wastewater after treatment. Requiring monitoring of temperature in this permit allows us to assess what impact this wastewater has as a result of the temperature it is when discharged. Without adequate data, DEQ cannot establish a permit limit. No change was made to the permit or fact sheet as a result of this comment.

Comment: Hourly temperature monitoring will require a significant effort to obtain representative temperature readings. One must ensure the effluent pump is running to avoid getting temperatures reflective of stagnant water. Collecting this data hourly will require a full time operator or expensive automation, not to mention a major data management effort, for no clear environmental benefit. It is almost certain that temperatures will not be able to be collected every hour, due to staff unavailability, equipment malfunctions, etc. Will that result in a violation for failure to collect irrelevant data? Additionally, some facilities have no cooking operations and use only cold water in processing to maintain the quality of the seafood. Why are they required to collect hourly temperature data – a massive data management effort – for no reason? It is recommended that only facilities with cooking operations be required to perform temperature monitoring over a short period of time, such as several weeks during key processing periods. The requirement should clarify DEQ's purpose for this study; mere curiosity as to what a facility's effluent temperature profile "looks like" is not sufficient justification to require this massive data collection requirement. (Ref Nbr 14)

DEQ Response: Automated temperature sensors exist that should help facilities comply with condition of the permit. As the previous comment stated, temperature can have a greater effect depending upon when the discharge occurs. DEQ does not have much data on the temperature of seafood processing wastewater after treatment. Requiring monitoring of temperature in this permit allows us to assess what impact this wastewater

has as a result of the temperature it is when discharged. Without adequate data, DEQ cannot establish a permit limit. No change was made to the permit or fact sheet as a result of this comment.

3.2.2.3 Bacteria

Comment: We believe the Department is misinterpreting Oregon Administrative Rule (OAR 340-041-0009) with respect to application of the proposed bacterial limits to seafood processing facilities. The proposed rules apply limits for fecal coliform, E. Coli, and enterococcus in the 900-J permit at the end of the pipe vs. the boundary of the mixing zone. These organisms are commonly monitored in the effluent from domestic sewage treatment plants as indicator organisms for the potential presence of human pathogens. Application of these limits to seafood processing facilities at the end of the pipe is inappropriate for a number of reasons; namely, bacteria effluent limits are applicable to "fecal sources," not seafood processing facilities. Bacterial loading in seafood processing wastewater is not from human domestic sewage. (Ref Nbr 4)

Comment: My second comment has to do with fecal coliform and enterococcus testing. These tests are markers for the presence of feces which carries pathogens that make humans sick. It does make sense to evaluate fecal coliforms and enterococcus coming from water treated at a municipal treatment facility because the main purpose of the facility is to treat sewage which is a source of feces. Fecal coliforms and enterococcus come from the feces of warm blooded animals. Fish are not warm blooded animals. They are not a source of fecal coliforms. Any source of fecal coliforms would come from the natural environment and plants already have food safety plans in place to prevent fecal coliforms from coming into the plant and getting on the food. It makes sense to monitor for markers of feces from sewage as that is an extreme source of feces. It does not make sense to monitor from a food product that is not a source of fecal coliforms and enterococcus, and thus feces. (Ref Nbr 9)

Comment: Permittees should have the option of complying with the bacteria limits or conducting a sanitary survey to determine whether BMPs and Source Controls would be sufficient. Complying with the proposed bacterial limits at the end of pipe will require treatment technologies that may be cost prohibitive. (Ref Nbr 10)

Comment: We maintain that DEQ continues to misinterpret, misapply, and over-apply Oregon Administrative Rule (OAR 340-041-0009) with respect to proposed bacterial limits (now “benchmarks”) in the Draft 900-J permit. DEQ is proposing to apply limits/benchmarks for fecal coliform, E. Coli, and enterococcus in the 900-J permit at the end of the pipe vs. at the boundary of a mixing zone. These organisms are commonly monitored in the effluent from domestic sewage treatment plants as indicator organisms for the potential presence of human pathogens. Application of these limits to seafood processing facilities is inappropriate for a number of reasons; namely, bacteria effluent limits are applicable to “fecal sources,” not seafood processing facilities. Bacterial loading in seafood processing wastewater is not from human domestic sewage. OAR 340-041-0009 (6) states that “bacteria in effluent discharges associated with fecal sources may not exceed the following amounts:” and then lists limits for E. Coli and enterococcus in that Rule. Based on this rule, DEQ has concluded that a mixing zone is not allowed for any bacteria sampling at seafood processing plants. However, most bacteria found in seafood plant wastewater is from seagulls, which defecate anywhere and everywhere, making it virtually impossible to comply with the proposed bacterial limits, especially at the end of the pipe. Seafood processing operations are not fecal sources like a wastewater treatment plant or confined animal

feeding operation that treat/generate a large amount of human and animal-sourced waste. Moreover, OAR 340-041-0009 (6) does not mention fecal coliform at all; there is absolutely no reason for DEQ to not allow a mixing zone for fecal coliform. (Ref Nbr 12)

Comment: Bacteria

- Treatment to meet the proposed bacterial standards is problematic and may result in the need to entirely re-design wastewater treatment processes, such as the installation of DAF systems that would produce chemical-sludge that must be disposed in landfills, as described above.
- The test methods for bacteria were developed for homogenous and treated domestic wastewater streams, not seafood processing wastewater
    - Due to the heterogeneous nature of seafood processing wastewater, the ability of a facility to comply with the standard will be subject to chance, and the results upon which compliance is determined cannot be depended upon to be representative of the wastewater stream.
    - DEQ recognized this limitation in the 2006 Permit Evaluation Review Report ("PERR") for the 900-J, but has not provided guidance to address this deficiency.
- Bacterial limits are misapplied to wastewater from seafood processing operations.
    - OAR 340-041-0009 (6) states that bacteria in effluent discharges associated with fecal sources may not exceed the limits listed in that Rule.
    - Seafood processing operations are not fecal sources.
    - Sources for the bacteria in question (fecal coliform, E. coli, and enterococcus) are primarily seagulls and other coastal birds that are present in all coastal areas and should be considered an ambient source for these bacteria.
    - As indicators, these organisms do not necessarily represent a deleterious condition themselves, but they are typically used to indicate the potential presence of human pathogens in association with fecal sources such as raw human sewage or runoff contaminated with domesticated animal waste, not seagull waste
- DEQ continues to misinterpret and misapply Oregon Administrative Rule (OAR 340- 041-0009) with respect to bacterial limits. DEQ is proposing to apply limits for fecal coliform, E. Coli, and/or enterococcus in the 900-J permit at the end of the pipe versus the boundary of the mixing zone. OAR 340-041-0009 (6) states that "bacteria in effluent discharges associated with fecal sources may not exceed the following amounts:" and then lists limits for E. Coli and enterococcus in that Rule. Based on this rule, DEQ has concluded that a mixing zone is not allowed for bacteria sampling at seafood processing plants. However, bacteria found in seafood plant wastewater are from seagulls, which defecate everywhere along the coast, making it virtually impossible to comply with the proposed bacterial limits, especially at the end of the pipe. Seafood processing operations are not fecal sources like a wastewater treatment plant or confined animal feeding operation that treat/generate a large amount of fecal sewage. Moreover, OAR 340-041-0009 (6) does not mention fecal coliform at all – there is absolutely no reason for DEQ to not allow a mixing zone for fecal coliform. (Ref Nbr 14)

    DEQ Response: In the limited data DEQ does have on bacteria in seafood processing wastewater, there is bacteria present. DEQ is using a benchmark instead of a hard limit so that more information can be gathered before the imposition of a permit limit. This allows time for each processor to determine why bacteria, if present, is in their wastewater, and gives them time to change practices to eliminate the problem before facing violations of the permit. Bacteria can cause illness in humans who recreate in the water and can make it unsafe harvest shellfish. Further, we have reviewed our application

of the bacteria rules and consulted with legal counsel who support our interpretation of the rules. No change was made to the permit or fact sheet as a result of this comment.

Comment: While it's clear that the bacteria benchmark applies to areas where there is potential shellfish harvest (commercial and recreational) downstream, it's not clear to us if this bacteria benchmark also applies in places where there is potential for direct water contact by recreationists, such as people who sea kayak from boat access sites in the boat basin out into the estuary and may be exposed to splashes of water. In addition, last summer, it was reported that a plume of discharge persisted against the south jetty and out into sea water beyond the mouth of the river. South of the jetty there is also some beach-based recreation—body boarding and kite boarding—where people could come in physical contact with contaminated water. (Ref Nbr 13)

DEQ Response: The bacteria benchmark applies to any Tier 1 or 2 registrants regardless of where they discharge. If the waters that they discharge to are used for recreation, the benchmark applies and requires the registrant to revise their actions to control bacteria. The benchmark level was set to be protective of both human contact and shellfish harvesting. No change was made to the permit or fact sheet as a result of this comment.

3.2.2.4 Benchmarks

Comment: In general, Surfrider is perplexed by the removal of limits and replacement with "benchmarks" with unclear goals, monitoring and compliance schedules.(Ref Nbr 5)

DEQ Response: DEQ is using a benchmark instead of a hard limit so that more information can be gathered before the imposition of a permit limit. This allows time for each processor to determine why the benchmark pollutant, if present, is in their wastewater, and gives them time to change practices to eliminate the problem before facing violations of the permit. Once a permit limit is set, "relaxing" it is considered "backsliding" which is not generally allowed. Please see section 10.3.2, 10.3.3, 10.4 and 10.5 of permit fact sheet for further description the benchmarks and how they are applied. No change was made to the permit or fact sheet as a result of this comment.

Comment: Tier 3 does not appear to have any benchmarks or limitations for bacteria or temperature, chlorine and ammonia. Is this correct? This seems like it would be unlawful and inconsistent with the goal of NDPES permits. There's not even a requirement to measure and monitor these levels for Tier 3. Even if they don't have benchmarks, there should be requirement to monitor and record these discharge levels more than just once per year. (Ref Nbr 5)

DEQ Response: Based on data collected from existing facilities that fit the definition of Tier 3, DEQ has determined that some pollutants are not found in the wastewater or are below limits and benchmarks. The monitoring requirement will allow us to verify this determination with new data. No change was made to the permit or fact sheet as a result of this comment.

Comment: The previous version of draft permit (April 2018) included interim and final chlorine, ammonia, temperature, and bacteria effluent limits. Sections 6.11 and 6.22 of the 2018 Evaluation Report state that DEQ found reasonable potential to exist for ammonia, chlorine, and bacteria, and that given the lack of available data, interim limits/compliance schedules were established in the 2018 draft permit as appropriate. As stated in EPA's comments on the 2018 version of the draft permit, monitoring for both chlorine and ammonia are required in the current, administratively-continued permit, so data should be available. In the latest proposed permit,

DEQ has removed interim effluent limits and has instead moved to benchmarks for ammonia, chlorine, temperature, and bacteria. Per 40 CFR § 122.44(d): limitations must control all pollutants that have the reasonable potential to cause or contribute to an excursion above State water quality standard(s); the permitting authority must evaluate existing pollutant controls, the variability of pollutants in effluent, the dilution of the effluent in the receiving water; and if reasonable potential is found, the permit must contain WQBELs for pollutants that will contribute to an excursion. DEQ has not provided adequate justification for applying benchmarks in lieu of numeric effluent limits in the permit. Typically, instances where benchmarks may be applied in NPDES permits include stormwater permits where highly variable, intermittent discharge may make established numeric limits infeasible. (Ref Nbr 7)

DEQ Response: DEQ determined that the data set available on ammonia, chlorine and bacteria was not sufficient for setting a permit limit. The use of benchmarks allows us to gather more data before establishing a limit in permit. Further, the test method for ammonia and chlorine was not approved for the entire period that the last version of the permit covered, further limiting the amount of data available. No change was made to the permit or fact sheet as a result of this comment.

3.2.2.5 Mixing Zone

Comment: The permit grants a regulatory mixing zone within a radius of 100 feet of the point of discharge and a zone of immediate dilution within a radius of 10 feet of the discharge. The permit also sets a dilution ratio of the discharge to the receiving water body at a minimum of 1 to 10 at the edge of the regulatory mixing zone and a minimum of 1 to 5 at the edge of the zone of immediate dilution. Section 10.6. l of the Evaluation Report describes the regulatory mixing zone and zone of immediate dilution, however, it is unclear to what extent DEQ examined the effluent characteristics while establishing the mixing zone to meet the conditions set forth in Oregon Administrative Rule 340-041-0053(2)(c). (Ref Nbr 7)

DEQ Response: The mixing zone in the 900-J is in compliance with OAR 340-041-0053. Seafood processors covered by the 900-J are located in bays or estuarine areas where boats can offload product. They are not typically located in areas where there are wading beaches or drinking water intakes; therefore, the risk of human exposure is very low. While low levels of ammonia and chlorine may be found in the effluent from seafood processors, DEQ expects that the immediate dilution of the effluent within the mixing zone reduces toxicity below lethal concentrations for aquatic life and they are not present in levels that are toxic to humans. As stated in the permit fact sheet, however, DEQ does not have accurate data to assess the impact to aquatic life and. The 2019 proposed permit renewal requires additional monitoring for these pollutants to assess their risk. The permit also included benchmarks for ammonia and chlorine as an interim measure for aquatic life protection while additional data is collected.

DEQ also considered thermal plume impacts as discussed in the fact sheet: seafood processors are not located in salmonid spawning areas, temperatures are not lethal due to mixing with cooler wastewater streams, and passage is expected because outfalls are located in areas with wide cross sections or amongst the docks. To confirm these assumptions, the proposed permit includes temperature benchmarks and monitoring requirements for Tier 1 and Tier 2 registrants to ensure that salmonids are protected. DEQ does not expect Tier 3 registrants to exceed the criteria outside of the regulatory mixing zone because effluent flows are extremely low and intermittent.

The 100 foot mixing zone radius was set in the original 1992 900-J permit based on existing locations of known seafood processors as well as areas such processors were likely to locate. In the 2006 renewal, DEQ conducted CORMIX modeling for a wide range of flow conditions to determine that the dilutions of 10 were readily available and, similarly, over a wide range of values, a Streeter-Phelps dissolved oxygen analysis showed little effect on DO levels in the far field. In the 2018 permit proposal, DEQ added a zone of immediate dilution at 10 feet (10% of the mixing zone per the Technical Support Document for Water Quality-Based Toxics Control, 1991). DEQ considers the mixing zone to be as small as feasible because it is protective of human and aquatic life and processors are using the treatment technologies evaluated by EPA to develop effluent limit guidelines for seafood processing discharges.

Comment: As far as we can tell, the permit language does not address situations where beneficial recreational and wildlife uses occur within 100 feet of the discharge outfall —the allowed "mixing" zone. In the case of the Chetco discharge in the Brookings Harbor boat basin, there is use by recreational fishing boats and sea kayaks in waters impacted by the discharge —as boats enter and leave the harbor—and may also be used by fish and wildlife. Apparently, last summer, filters on boat engines got clogged up by solids in the discharge. The general permit should not allow such beneficial recreational uses to be degraded. (Ref Nbr 13)

DEQ Response: If the permit is complied with, the impact within the mixing zone should be minimal for recreationists and wildlife who pass through the zone. No change was made to the permit or fact sheet as a result of this comment.

Comment: The most significant factors that weigh into a facility's potential for environmental impact are the receiving water to which the facility discharges, which is the environment directly impacted by the discharge, and whether the facility's outfall is properly designed to provide adequate mixing. DEQ has not considered "receiving stream conditions" as an important factor for establishing sampling frequencies, in direct contradiction to DEQ's Regulatory Mixing Zone Internal Management Document – Part 2, which considers the "sensitivity of the receiving water" in determining the level of effort required for mixing zone studies. (Ref Nbr 14)

DEQ Response: Because this is a general permit, there is a limit to how much a specific receiving water bodies individual characteristics can be considered in the sampling frequency of the permit. DEQ has sought to provide sampling frequency that is protective of most receiving waters and it varies with the Tier the registrant is in since the Tier reflects the volume of discharge and complexity of the wastewater. No change was made to the permit or fact sheet as a result of this comment.

3.2.2.6 Miscellaneous

Comment: The 2006, administratively continued permit, Pages 2-3, includes footnotes to indicate that limits apply only to facilities above a certain production threshold. For example, for existing sources and shrimp, footnote I indicates "These limits apply only to facilities where more than 908 kg (2000 lb) of shrimp are processed on any day during the year." The EPA suggests including this information for Tables A1 and A2 as appropriate. (Ref Nbr 7)

DEQ Response: DEQ cited the CFR instead of including the footnotes, however DEQ agrees that the footnotes should be included for convenience. These footnotes have been added to the permit.

Comment: Corrections to Existing Sources (Table A2):

- The monthly average TSS limit for Breaded Shrimp is 93, rather than 36.
- The daily maximum limit for Oil & Grease for Breaded Shrimp is 36, rather than 93 (40 CFR 408.132).
- The regulatory citation for Bottom Fish (conventional) is 40 CFR 408.212, rather than 40 CFR 408.215.
- It appears the intention is to use BCT limits for Scallops, given they are more stringent. The daily maximum BCT TSS limit for Scallops is 5.7, rather than 6.0. The monthly average BCT Oil & Grease limit for Scallops is 0.23, rather than 0.24. The daily maximum BCT Oil & Grease limit for Scallops is 7.3, rather than 7.7. (Ref Nbr 7)

DEQ Response: DEQ has made the corrections to Table A2.

Comment: The monthly average and daily maximum benchmark limits for Chlorine (salt and freshwater) are reported as 1 significant figure, where the permit indicates that mass loads and mass load limits all have two significant figures unless otherwise noted. The EPA suggests using micrograms (µg) for Chlorine. (Ref Nbr 7)

Comment: Page 16, Schedule B.1.e.i. of the Draft Permit states, "The final result of calculations must contain no more than two significant figures." While limits such as the New Source Shrimp Daily Maximum BOD limit (=155 lbs/1000-lb) have three significant figures. How does DEQ recommend permittees report accurate data? (Ref Nbr 14)

DEQ Response: To be consistent with the other benchmarks, DEQ revised the chlorine benchmarks in the permit to include two significant figures but kept the units at mg/L. The DEQ calculator, which is the discharge monitoring report for the 900-J, uses the following rounding rule: If the number is followed by 5, 6, 7, 8, or 9, round the number up. If the number is followed by 0, 1, 2, 3, or 4, round the number down.

3.2.3 Schedule B Minimum Monitoring and Reporting Requirements

3.2.3.1 General comments

Comment: The monitoring and sampling requirements proposed by DEQ will create significant logistical problems for seafood processing operations. The proposed monitoring/sampling requirements represent an eight-fold increase from current requirements for seafood processing facilities and will be extremely challenging for the industry in terms of logistics. Seafood processors are often in remote locations where it is difficult to get samples to a laboratory, and shipping times/days for laboratory testing are limited. Additionally, seafood processing often does not occur on a daily basis. The requirement to collect samples for every type of seafood processed will create significant problems for facilities that only process some species seasonally or opportunistically. Moreover, twice-per-week sampling is not a standard requirement for all industrial dischargers. (Ref Nbr 4)

Comment: The Draft Permit effectively requires all commercial seafood processing facilities to sample twice weekly, an increase of 800% over current sampling frequency. DEQ has provided no reasonable justification or rationale for increased monitoring at that scale. Moreover, such proposed monitoring and sampling requirements create significant logistical problems. Not only

is twice-per-week sampling not a standard requirement for all industrial dischargers, it fails to account for the unique factual realities of the seafood processing industry. Seafood processors are often in remote locations where laboratories are not immediately available, making it exceptionally difficult to transport samples to a laboratory where shipment receiving times and days are frequently limited.

Additionally, seafood processing often does not occur on a daily basis. On holiday weeks, such as Thanksgiving or Christmas, or other weeks where facilities only process on a few days due to limited catch, it will be impossible to meet this requirement. The permit must include some accommodation for the fact that, while a facility may process 3 or 4 days a week, if those days fall on days when the laboratory cannot receive samples, then collection of two samples per week will not be possible.

The requirement to collect samples for every type of seafood processed will create significant problems for facilities that only process some species seasonally or opportunistically, as it is impossible to know if and when another such opportunity might arise that month. There will also almost certainly be instances where the only days on which a species is processed, for example at the start of or end of a season, will fall on a day when it's not possible to sample due to laboratory shipment receiving restrictions (i.e. on a weekend).

For these reasons, the proposed 900-J permit will necessitate the retention of a dedicated and skilled full-time employee for monitoring, sampling, data logging, tracking, and in-house testing to meet various requirements. Finding and retaining qualified individuals to ensure compliance with these onerous monitoring and sampling requirements will be especially challenging for the seafood industry, which is already hamstrung by a shortage of workers in the rural coastal communities where they operate. (Ref Nbr 14)

Comment: The requirement to sample each species and its process type at least one per month will also be exceptionally complicated to implement. Many commercial seafood processing facilities process multiple species in a given month, depending on what type of seafood is being offloaded at the facility. The type and timing of individual offloads can be exceptionally difficult to predict, making coordination of separate samples for each species and process type virtually impossible to coordinate. Even if samples can be taken, laboratory availability constraints will render many such samples meaningless. Processing of seafood occurs as the raw product is available. If, for example, raw product for which wastewater samples have not been collected during a month is available for processing on a Friday or Saturday at the end of a month, a facility cannot wait until Monday (when labs are open and available). This would thus force processors into an impossible position: risk product spoilage and/or devaluation, or risk arbitrary enforcement action for failure to meet the Department's exceedingly complicated sampling programs. It is simply not possible for hold times to be met and all species/process types to be properly sampled in such scenarios. (Ref Nbr 14)

Comment: Maybe some way to tie how often you measure based on the amount of production running through your plant instead of use a set twice per week. The same issue is present when we talk about the temperature monitoring for 24 hours and then seven days consecutive here are certain months out of the year when seven days consecutive is not a problem. There are other months where seven days consecutive just isn't gonna happen for the entire month. You can run into the same issues with 24 hour monitoring. It's a little vague about where the monitoring could occur and processors may choose to monitor at different areas in their process that would lead to very different results based on where you're doing that 24 hour monitoring. And if you're not processing for 24 hours, if you only process for four, eight, you know, ten hours a day, the

remaining hours are, depending on where you're monitoring, not necessarily reflect temperature of your discharge water. So really looking at the frequency of monitoring and sampling required and maybe trying to tie that more to how the industry actually operates would be really beneficial. (Ref Nbr O4)

> ***DEQ Response:*** DEQ has the discretion to set monitoring requirements it believes necessary to demonstrate compliance with its permits. DEQ encourages the seafood processing industry to develop in house labs, team up with other facilities that have labs, and to invest in sampling and monitoring automation to relieve the burden on staff. DEQ must also have adequate data to appropriately evaluate water quality impacts at every permit renewal. No change was made to the permit or fact sheet as a result of this comment.

3.2.3.2 Chlorine

Comment: The current chlorine methods were developed for water or wastewater outflow from a municipal treatment facility, not the inflow into a municipal waste treatment facility. By the time wastewater leaves a treatment facility, it is "treated" and the only thing in the wastewater matrix is water. This is the simplest matrix possible. The matrix coming from processing plants is not just water. It has fat and protein. It is well known that protein solubility can be effected by factors such as pH, temperature, and ionic strength. The chlorine test changes the pH of the water being evaluated. This is not a big deal when you are just dealing with water (the outflow from a municipal treatment facility). However, when you are dealing with water containing solubilized and suspended protein this is a very big deal. Proteins that are soluble can become suspended. Proteins that are insoluble can become soluble. This test relies on light absorbance. If there are suspended particles, they will block the light and give a false high positive. I commend the Oregon DEQ for trying to find a modification to the chlorine method that addresses the protein in the matrix to precipitate out and create a cloudy mixture. However, since they have modified the method without validating its precision and repeatability for every possible wastewater matrix, this means the burden is now placed on the processors quality assurance laboratories to establish method validation. (Ref Nbr 9)

Comment: Residual chlorine

- Test methods for residual chlorine are not designed for seafood processing wastewater and will not provide reliable results.
- Interferences associated with reagents used for the recommended method will bias results high, resulting in false exceedances. Specifically, use of ozonated water for sanitation will create false positives. Ozone has a long history of use in the food processing sector and is used in all Pacific Seafood facilities. DEQ policy should be to encourage the use such environmentally friendly materials, rather than indirectly penalize their use via unproven water quality limits for which reliable test methods are not immediately available.
- It will be extremely difficult to complete these tests within the 15 minute holding time due to the interferences noted above and due to DEQ's requirement to complete quality assurance/quality control procedures.
- Chlorine levels in city intake water are most often above the proposed benchmark levels. Seafood processors should not be responsible for cleansing water of constituents not in any way associated with processing activity.

(Ref Nbr 14)

> ***DEQ Response:*** DEQ has consulted with our lab and find that the method is appropriate for this wastewater. Chlorine in drinking water will typically off gas or bind with other

materials during the processing of the seafood so the potential for drinking water to contribute enough chlorine to cause a violation is low. There is a memo on this method that DEQ can provide. DEQ has not been provided with data that shows false positives using the chlorine method with seafood processors who use ozone. If a processor using ozone finds that the method provides false positives, they should contact DEQ.

3.2.3.3 Reporting

Comment: Permit, Page 15, Electronic Submissions--The EPA recommends including the web addresses where the DEQ-approved web-based DMR forms can be found. (Ref Nbr 7)

Comment: On Page 22 of the Draft Permit, "Table B4: Reporting Requirements and Due Dates", Note 3 covers the requirement of electronic submittals and the use of an electronic reporting system. In the event the electronic reporting system is down for maintenance on the due date or other reason and a permittee has yet to submit their DMR, will an alternative method be available for submittal, such as email or a post-marked hardcopy? (Ref Nbr 14)

Comment: Page 16, Schedule B.1.e.iii. of the Draft Permit states, "The registrant must use the compliance calculation spreadsheet provided by DEQ to complete the monthly paper or electronic DMR." Will this spreadsheet be made available via the DEQ website after permit issuance? (Ref Nbr 14)

> ***DEQ Response:*** If the electronic system for submitting DMRs is down, DEQ accepts hard copy or submittal via email. As of August 2020, DEQ does not have an electronic system set up for DMRs for registrants under general permits like the 900-J but this kind of system will is being developed. The calculator DEQ is supplying is the registrant's DMR and a daily sheet must be included as an attachment.

3.2.3.4 Monitoring Parameters

Comment: Table Bl: Monitoring Parameters for All Registrants--The following parameters appear to be duplicative in Table B 1:

- BOD5 production-normalized daily
- TSS, O&G production-normalized
- BOD5, TSS, O&G production-normalized

(Ref Nbr 7)

> ***DEQ Response:*** DEQ agrees that these are duplicative and removed them from Table B1.

3.2.3.5 Cleaning Solutions

Comment: My third comment is on reporting all cleaning solutions used at the facility every single day. Cleaning solutions can be changed based on type of equipment being cleaned and type of soil trying to be removed. Sanitizers are rotated to prevent bacterial films from developing. The amount of cleaning solution I would think would be very difficult to estimate on a day to day bases as the cleaning solutions are diluted using automated foam systems that pull water in at a certain rate to obtain the appropriate dilutions. Quantity used would only be an estimate in the base case scenario. It's not like they put a cup of cleaning solution in a bucket, mix with water and are good to go. These large tanks are plumbed to the foaming systems. (Ref Nbr 9)

Comment: Similarly, daily logging of cleaning supplies is imprecise and unnecessary and again creates a requirement for full time staff and a major data management effort, with opportunities for data to be missed, for no clear environmental benefit. If DEQ is curious as to the cleaning operations conducted at a facility, a cleaning chemical usage study could be required. As with the temperature monitoring study, this could be conducted over a period of time, but then completed without further daily recordkeeping. (Ref Nbr 14)

> ***DEQ Response:*** The information that would be provided by a log of cleaning products used and amounts is needed to get information for future revisions to the permit. Without details on the type and volume and frequency, DEQ may not be able to set limits or other controls that fit the needs of the industry while protecting the environment. Direct reporting from the registrants is more useful than a study that may not reflect all registrants and process. No change was made to the permit or fact sheet as a result of this comment.

3.2.3.6 Temperature

Comment: Finally, it seems Oregon DEQ is worried about the effects of warm water from cooking equipment in the waste stream. I believe a more effective way to understand the impacts of warm water entering the waste water stream is to ask the plants to conduct a focused study and monitor the temperature when their cookers are actually in operation. Plant operation processes are standardized. The study should tell you whether adjustments need to be made on the temperature of the water before it enters the waste stream. (Ref Nbr 9)

> ***DEQ Response:*** As discussed in the fact sheet, DEQ is setting a benchmark for temperature for Tier 1 and Tier 2 processors and is also requiring temperature monitoring. If the processors exceeds the benchmark, they are required to examine their temperature inputs. No change was made to the permit or fact sheet as a result of this comment.

3.2.3.7 Outfall Inspection

Comment: Permit, Page 20, Outfall Inspection. The proposed permit requires outfall(s) inspection during the first year of registration and again in the fourth year. The EPA recommends that the frequency of inspection be performed on a minimum frequency of every 5 years, the life of the permit. This would ensure that outfall inspection continue should the permit be administratively continued beyond 5 years. (Ref Nbr 7)

> ***DEQ Response:*** DEQ added the requirement to check the outfall once every five years, in addition to the first and fourth year of registration, so that if the permit is administratively extended, outfall inspections will still be required.

3.2.3.8 Mixing Zone Study

Comment: Permit, Page 24, Tier 1 and 2 Mixing Zone Study for Existing Registrants Covered by 2006 900-J. In Schedule D, Special Conditions, the title "Tier 1 and 2 Mixing Zone Study for Existing Registrants Covered by 2006 900-J" implies that the mixing zone study is not required for new registrants, while Table 2 in the permit indicates the study is required for Tier 1 and Tier 2 applicants, both new and renewing. (Ref Nbr 7)

DEQ Response: Table 2 of the permit clearly describes when a mixing zone study is required for new and renewing applicants. No change was made to the permit or fact sheet as a result of this comment.

3.2.3.9 Sanitary Wastes

Comment: Permit, Page 24, Sanitary Wastes. Clarify that this section pertains to sanitary wastewater and suggest rewording to "This permit prohibits the discharge of non-process wastewater including sanitary wastewater, which must be directed to the sewer system." (Ref Nbr 7)

DEQ Response: DEQ does not find that this proposed rewording clarifies the permit. No change was made to the permit or fact sheet as a result of this comment.

Comment: On Page 22 of the Draft Permit, "Table B4: Reporting Requirements and Due Dates", Note 1 specifies that "submittals are due on the calendar due date". Is it acceptable to submit results on the first business day after the due date if the due date falls on a holiday or weekend? (Ref Nbr 14)

DEQ Response: DEQ typically accepts postmark dates for compliance with due dates. Also future electronic submittals will make it easier to submit by due dates. No change was made to the permit or fact sheet as a result of this comment.

3.2.4 Schedule D Special Conditions

Comment: The new requirement for seafood processing plants to apply for coverage under the State stormwater permit will place a significant economic hardship on smaller operations. (Ref Nbr 10)

DEQ response: If the seafood processing facility is a tenant at a port or industrial park, the property owner may have stormwater permit coverage. DEQ has a stormwater program to control stormwater through the consistent use of permits and practices for stormwater management. No change was made to the permit or fact sheet as a result of this comment.

3.2.5 Schedule F General Conditions

3.2.5.1 Appendix 1—Compliance Calculations

Comment: The sample results reporting and calculation spreadsheet on DEQ's website still appears to include the complicated compliance calculations that were included in the prior draft permit, which required calculation of a compliance value for each species processed at a multi-species facility. As noted in comments to the prior permit, that process would result in multiple exceedances any time there would have been only one exceedance under the current way compliance is assessed. Please clarify, does this new version of the Draft Permit use the prior way of calculating compliance, whereby a daily limit consisting of the sum of the ELG for each species times the weight of each species processed? Or is it proposing the same method as the prior Draft 900-J permit? (Ref Nbr 14)

DEQ Response: The calculator was updated between the 2018 and 2019 versions of the permit. The 2019 version sets a ratio between multiple species. This version of the

calculator is more representative of the separate wastewaters from each process. The calculator spreadsheet is being updated to assure accuracy and will be reposted when the permit is issued.

3.2.5.2 List of Tables

Comment: Unfortunately, specific water quality effluent limitations (for interim and final) proposed in the 2018 version have been removed from the 2019 version, and replaced with "benchmarks" which we find both extremely confusing and troubling. These benchmarks are set for the same categories and maybe seem to act as loose limits? Some of the numbers are much higher than the 2018 version, but some are much lower, and it's really not clear when these benchmarks need to be met (interim? final?) – this should be specified. Instead of having a compliance schedule (the entire Schedule C compliance schedule has been removed from the 2019 version), the benchmarks are accompanied by newly created Section 9 under Special Conditions, stating "corrective action required for benchmark exceedances", which is just a correction plan. There seems to be no requirement to actually meet these standards, just more paperwork if you miss it. We believe that having benchmarks is important but clarity on the goals of the benchmarks would be helpful with a clear timeline and outcomes for establishing clear limits. Surfrider would like to see clarification on the difference in "benchmarks" (Table A3 & A4) vs "limits" when it comes to regulatory standards, and clarification on when monitoring for these new benchmarks is required (what step in the process?) Table B2 provides sample collection method and monitoring schedule, but not clarity on what stage to grab from. (Ref Nbr 5)

> ***DEQ Response:*** DEQ is using a benchmark instead of a hard limit so that more information can be gathered before the imposition of a permit limit. This allows time for each processor to determine why the benchmark pollutant, if present, is in their wastewater, and gives them time to change practices to eliminate the problem before facing violations of the permit. Once a permit limit is set, "relaxing" it is considered "backsliding" which is not generally allowed. Please see section 10.3.2, 10.3.310.4 and 10.5 of permit fact sheet for further description the benchmarks and how they are applied. No change was made to the permit or fact sheet as a result of this comment.

3.3 Fact Sheet

3.3.1 Definitions

Comment: Page 8, Section 3.2, Development of Tiers: In the bullet point "Complexity of the discharge .... " (5th bullet down) - What is meant by ' ... but does not necessarily affect water quality impact."? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** This section of the fact sheet has been revised to clarify that "complexity" describes the number of species and processes generating wastewater rather than "the impact to water quality."

Comment: Page 8, Table 3.1,Tier Classifications: Is BOD loading and effluent flow calculated based on sample days only? What about sampling days when there was flow but no processing? All processing and flow days? If you meet only one criterion, does that automatically put you in Tier 1? Likewise for Tier 2? (Ref Nbr ***10 & 11***)

DEQ Response: Pollutant loadings are based on the daily maximum and monthly average sample data. Samples are only required when processing, which include wash-down water and equipment cleaning activities. Tier assignments are based on organic load, production, days of operation, and flow.

3.3.2 Seafood Processing Operations

Comment: Page 9, Section 4.2, Processes Covered: What is meant by the sentence "All other stormwater MAY be subject to coverage under the NPDES 1200-Z industrial stormwater general permit."? (Ref Nbr ***10 & 11***)

DEQ Response: It means that some facilities may require a 1200-Z storm water permit depending on how materials and activities are handled and exposed to rainfall. Other facilities may not need a 1200-Z permit.

Comment: Page 9, Section 4.2, Processes Covered: What is meant by the sentence "DEQ did not include surimi processing in this permit because it is not regulated by existing federal effluent limitation guidelines and, therefore, requires an analysis of processing activities at each site to develop technology-based effluent limitations."? (Ref Nbr ***10 & 11***)

DEQ Response: The general permit only covers activities with existing federal effluent limitation guidelines. For facilities without such federal guidelines, a site-specific analysis is necessary to develop technology-based permit limits. Such an analysis is not within the scope of this general permit renewal.

Comment: Page 9, Section 4.2, Processes Covered: Will DEQ generate TBELS only for sub-processes of existing ELGs? For example, Offloading only, Whole cooked shrimp, Whole raw frozen shrimp? (Ref Nbr ***10 & 11***)

DEQ Response: DEQ does not have plans to generate individual ELGs for these processes.

3.3.3 Recreational Sportfish Cleaning Stations

Comment: ODFW provided comments to DEQ regarding the discharge of whole fish carcasses from recreational fish cleaning stations (April 13, 2018). Currently, the NPDES 900-J General Permit requires that fish waste be ground to one inch or less prior to discharge into a waterbody. The current permit also includes an exception that allows a fish cleaning station to request individual approval for discharging whole carcasses into the water body, under certain circumstances. As proposed, the revised draft Permit excludes certain recreation fish cleaning stations that release whole carcasses (filleted or otherwise processed fish or shellfish or unground parts) into some waterbodies that have previously been approved under the current permit system, and may prevent new facilities from being permitted in the future. Since the amount of fish waste produced at these recreational fish cleaning stations is relatively small (especially in comparison to large seafood processing plants), ODFW would like recreational fish cleaning stations that discharge whole carcasses be permitted by DEQ in a manner that is simple and straightforward. In our previous comment letter, ODFW recommended that DEQ retain this exception in the new NPDES 900-J General Permit, however it is missing in the revised draft. We understand it was DEQ's intention to retain this exception and that it was inadvertently omitted from the revised draft permit. Therefore, we attach our previous comment letter to DEQ, as our recommendations regarding this provision remains the same. (Ref Nbr 6)

DEQ Response: The 900-J permit does not regulate the disposal of fish carcasses.

3.3.4 Application for Permit Coverage

Comment: Page 11, Section 6.2.3, How will tiers be determined for future renewals? DEQ states the registrant should submit an amended application if operations have changed that might affect the designated tier. Once DEQ assigns the tier it is fixed for the duration of the permit. What if a registrant changes the scope of their operation during the life of the permit? Are they allowed to submit an amendment? What if a Tier 3 operation decides to put in a Shrimp line sometime during the permit? (Ref Nbr ***10 & 11***)

DEQ Response: DEQ will be asking each seafood processor to update their existing permit renewal applications with additional information as needed once the 900-J is issued. As DEQ assigns permit coverage to each facility, the information will be used to consistently assign the appropriate tier. If the processor increases production during the permit period, that information will be used to determine the tier during the next permit renewal. Tier assignments will not change during the permit cycle.

3.3.5 Section 303(d) Limited Waters

Comment: Cumulative impacts to water quality. We are concerned about cumulative impacts to water quality in the Brookings boat basin and Chetco estuary. There may be other NPDES regulated discharges, and in the area where boats come and go, and there may be incidental spillage of gas and oil. All these discharges can have amplified impacts during periods of low flow. How does this general permit address cumulative impacts? DEQ must address this concern. (Ref Nbr 13)

DEQ Response: The 900-J permit regulates the discharge of wastewater from seafood processing facilities; it does not address nonpoint source pollution. DEQ cannot register a facility to the 900-J if the discharge will cause or contribute to the exceedance of a water quality standard. DEQ's development of a Total Maximum Daily Load for the impaired pollutants on the 303(d)list addresses cumulative point and nonpoint source impacts on a water body.

Comment: Page 13, Section 7.1, 303(d) Category 5 Water Quality Limited Water needing a TMDL: If a registrant discharges to a 303(d) water body, do they need an Individual Permit instead of a General Permit? (Ref Nbr ***10 & 11***)

DEQ Response: From the fact sheet: ***7.1.2 Existing processors covered by 2006 permit***
DEQ's 2012 303(d) list was approved by EPA in Dec. 2018 and is currently in effect. DEQ reviewed this list and determined that existing processors covered by the 2006 permit are not subject to additional requirements. This permit includes monitoring for temperature, bacteria, and dissolved oxygen; pesticides and arsenic are not expected to be present in seafood processing discharges.

Comment: Page 13, Section 7 .1.2, Existing processors covered by 2006 permit: DEQ states in the sentence "This permit includes monitoring for temperature, bacteria and dissolved oxygen." Where did the dissolved oxygen requirement come from? (Ref Nbr ***10 & 11***)

DEQ Response: The discharge from seafood processors is generally high in biochemical oxygen demand (BOD) which may reduce the dissolved oxygen in the receiving water body. For the 900-J renewal in 2006, DEQ conducted Streeter-Phelps dissolved oxygen analyses over a wide range of

values that showed little effect on DO levels in the far field. The 900-J requires monitoring to document dissolved oxygen levels.

Comment: Page 13, Section 7.2, 303(d) Category 4 Water Quality Limited Water with TMDL: The abbreviation "WLA" should be spelled out. (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** WLA means Waste Load Allocation, that amount of pollutant expressed as a mass, the particular permit hold is allowed to discharge without further impairing the water body. DEQ spelled this out in the fact sheet.

3.3.6 Applicable EPA Effluent Limitation Guidelines for Seafood Processing

Comment: Assuming that ELGs are derived by characterizing the effluent (flow and pollutant load overall and/or by unit operation) from a defined process (e.g. Whole Crab to picked meat, Whole Shrimp to cooked and peeled Shrimp), selecting a model technology, determining the percent reduction in overall pollutant load that could be achieved by applying this technology to this combined waste stream (all unit operations from Whole to picked meat), you end up with a production normalized limit for each pollutant (BOD, TSS, etc.) assuming this process (e.g. Whole Crab to picked meat) and this performance of the model technology on the combined wastes stream. The ELG does not predict the effluent quality and limit if you use the same unit operations but on a different species unless specified (EPA lumped some of the species under Bottomfish Conventional (Hand Butchered) and Mechanized but separated some of the species with the same unit operations such as Salmon Hand Butchered). You cannot apply ELGs for rendering of a select species (Menhaden and Anchovies) and apply them necessarily to any other species. The quality of the effluent is a function of the type and quality of the raw material processed, the unit operations, and the model technology with assumed performance based on defining the quality of the wastewater to be treated. (Ref Nbr 2)

Comment: Page 7, Section 3.1, Conventional vs. Mechanical Processing: ELGs were promulgated not just based on how a raw material was processed, but also on what was processed, e.g. BFC (hand butchered) and Salmon Hand Butchered. (Ref Nbr 10 & 11)

Comment: DEQ has the mandate to promulgate and apply the TBEL's in a manner that is consistent with the methodology used by the EPA to derive the ELG's. TBEL's should be developed for existing operations that are different from the operations described in 1974/1975, as well for the discharge from multi species operations which were not adequately addressed at that time. (Ref Nbr 10 & 11)

> ***DEQ Response:*** The commenters raise the point that different species will produce different wastes. When DEQ develops the technology based effluent limits we use the effluent limitation guidelines EPA adopts through rulemaking or our best professional judgment. In this case, our general permit covers a set of activities we observed and had self-reported data on from the facilities that were covered under the past general permit. If a facility is processing a species not covered under the general permit or in a way not addressed in the general permit, than the general permit would not be a suitable and they should apply for an individual permit.
>
> After the 2018 comment period, DEQ updated the fact sheet and permit to more clearly describe how the ELGs apply to fishmeal.

Comment: The ELG development documents evaluated conventional bottomfish facilities in 1973 with a production rate of 1.8 ton/hour for 7 hours/day' on average. This average facility could process 4,600 tons annually when operating 365 days a year. The Warrenton facility processed more than 10,000 tons in 2011 and may process as much as 20,000 tons per year once the reconstructed facility is operational.

According to the ELG development documents, a large facility processes 4,000 tons or more, but it is not evident that EPA considered facilities outside of Alaska with production capacities remotely approaching that of Warrenton. This is likely due to the pace and duration of production as well as the scale of the facility, which constitutes a fundamental difference between the facility and the ELGs applied by DEQ.

The ELG development documents evaluated Oregon Dungeness crab facilities in 1971 and 1972 with an average production rate of 7 tons/day. The Warrenton facility processed an average of 9.6 tons/day between 2010 and 2013. However, annual maximum daily productions in this period were 67, 61, and 53 tons/day for 2010, 2011, and 2013 respectively. The ELG development documents do not present data indicating that this scale of Dungeness crab production was contemplated by EPA in evaluating the industry. Furthermore, the data presented, when compared to Alaska facilities, indicates that the extent to which EPA evaluated the Oregon Dungeness crab processing facilities was cursory.

The ELG development documents identified "aerated lagoons" as the treatment technology for bottomfish conventional processing. This has never been a valid treatment technology for this type of operation. They also identify dissolved air flotation as an applicable treatment technology; however, it requires the use of toxic polyacrylamide polymers to meet the treatment efficiencies used in the development documents. (Ref Nbr 14)

> ***DEQ Response:*** These comments point out that the EPA ELGs captured the industry at a particular time and the industry has changed since that time. EPA does not have plans to update these ELGs at this time and DEQ cannot unilaterally change the EPA ELGs. As described in the fact sheet, DEQ used these ELGs to develop technology-based effluent limits or we used best professional judgment to develop TBELs for the 900-J, which is a general permit. As a general permit it was developed to be generally applicable to a variety of seafood processing activates. If a processor does not believe the 900-J is appropriate for their discharge, it may apply for an individual permit.

Comment: Page 14, Section 8.1, Overview: This is an incomplete description of ELG basis. ELGs are based on EPA first characterizing current pollutant load, selecting the model treatment technology most suitable, determining the expected % reduction from that technology and then applying the % reduction to the existing pollutant load to determine a limit.(Ref Nbr ***10 & 11***)

> ***DEQ Response:*** DEQ intended to provide a general statement regarding the ELG development process, not a complete description. EPA can provide more details on the development of ELGs. No change was to the permit or fact sheet as a result of this comment.

Comment: If you want to use BPJ to create a TBEL based on a portion of a process originally defined by EPA, you must compare the new process to the old process. Deriving ELGs based on applying the percentage of the flow of the new partial process (e.g. Whole Frozen Shrimp) to the original ELGs incorrectly assumes that flow and pollutant load are in the same proportion. Also, it may be incorrect to assume that the model technology will reduce the pollutant load of the new combined waste stream versus the original combined waste stream. (Ref Nbr 2)

> ***DEQ Response:*** The calculator developed for this general permit calculates the permit limits based on the amount of different seafood processed different ways. No change was made to the permit or fact sheet as a result of this comment.

Comment: If the partial process starts with the landed raw material but ends part way through the process (Whole Crab to cooked sections) how can you apply the ELG for Crab (Whole Crab to picked meat)?

Likewise, how can you apply the ELG for Crab when you process cooked sections to picked meat? (Ref Nbr 2)

> ***DEQ Response:*** The ELGs apply to each species processed and the day of the sampling event. To address the commenter's concern, many more samples would need to be taken each month, such as every day of processing. DEQ considers this many samples as being excessive to the industry.

Comment: DEQ has taken different approaches in the draft permit for deriving new ELGs or pigeonholing partial or different processes into existing ELGs. New Offloading, Shrimp, Crab, and existing rendering (Whole Anchovies and Menhaden to Fish Meal) limits are not derived using the EPA guidelines for promulgating or modifying ELGs. (Ref Nbr 2)

> ***DEQ Response:*** DEQ is using the ELG that best applies to the specific process in question. DEQ does not promulgate or modify existing ELS. Specific ELGs may be developed through the use of BPJ.

Comment: All the ELGs are expressed in pounds of pollutant per pound of landed / whole / round seafood that is then processed to a finished product. For Crab, this would be the weight of whole, unprocessed Crab converted to picked meat. So for Crab the ELG is expressed as pounds of pollutant per thousands of pounds of whole unprocessed Crab. If a processor takes cooked sections produced a previous day and makes picked meat, what weight of production should they use? The weight of cooked sections? The equivalent weight of whole Crab? (Ref Nbr 2)

> ***DEQ Response:*** The weight of the whole crab should be used.

Comment: Page 15, Section 8.3.3, Seafood Processing ELGs: In the last sentence, DEQ states "As a result, multiple TBELS may apply to multi-species processors." What is this based on? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** It means that a facility that processes more than one species can have more than one ELG apply to them. The spreadsheet calculator was designed to accommodate this situation.

Comment: Page 16, Table 8-1: There appear to be 3 boxes that are missing information. (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** This table is broken over two pages thus not making it clear that the entry in a column on one page carries over to that same column in on the second page. DEQ has revised the fact sheet so that the entire table is on one page.

Comment: Page 17, Section 8.4, Other Species and Processes Not Explicitly Covered by Existing EPA ELGs: Please clarify the second bullet point "Developing a TBEL using BPJ using a case by case analysis in cases where existing federal ELGs do not apply, as discussed below." Do you mean 'as discussed above'? (Ref Nbr ***10 & 11***)

Comment: Page 17, Section 8.4, Other Species and Processes Not Explicitly Covered by Existing EPA ELGs: DEQ states they developed the following list of species/process types for which the federal ELGs do not apply. Looking at the Hand Processing list of species, most of the entries do match what is in Subpart U BFC. Please clarify as to where the list from Subpart U BFC stops and the extra species developed by DEQ begins. (Ref Nbr ***10 & 11***)

DEQ Response: DEQ revised the fact sheet by deleting section 8.4 as it was confusing to the reader and the following sections adequately address the actions taken by DEQ in the renewed 900-J.

Comment: Page I8, Section 8.5 Existing ELGs Applicable to Other Species/Process Types continued, bullet point Subpart U Bottom Fish Conventional: The last sentence "The emphasis in this category is on processing that uses hand methods and does not include mechanical cutters or canning." doesn't fully represent the true intent of the ELGs which uses both method of processing AND species processed, and in some cases, geographical location. (Ref Nbr ***10 & 11***)

DEQ Response: DEQ interprets this comment as saying that the commenter disagrees with our application of this ELG to these species and types. DEQ does not agree we missed the intent of the ELG by emphasizing in the fact sheet that this ELG is for hand methods. No change was made to the permit or fact sheet as a result of this comment.

Comment: Page 18, Section 8.5 Existing ELGs Applicable to Other Species/Process Types continued, bullet point Subpart O Fish Meal: DEQ's interpretation of "such as" in the original EPA document " ... The reduction of oily species such as menhaden and anchovy for fish meal .... " to mean that other species can be brought into this category is incorrect. The original EPA bullet point (bullet point #2) only refers to oily species and lists menhaden and anchovy as examples. Bullet point #2 is listed under a paragraph on page 15 of the original EPA document that states: "The reduction of the oil[ly] species for animal feed, oils and solubles is not included in either classification (of seafood), but is specified in the contract. Therefore, the study encompassed the following segments of the United States fishery industry: "The interpretation of the sentence in bullet point #2 " ... the reduction of fish waste at the same facility" to mean that fish residuals can be brought into the category" is also in error. The EPA document clearly states that only one plant, Ml, processed mostly whole fish and some scraps from bottom fish and herring. This does not mean that the limits promulgated for whole oily fish rendering can be applied to a facility that does non-oily fish and/or mainly scraps.

The processors who are rendering primarily whole oily fish are covered, however, those rendering different species, i. e., non-oily fish and/or mainly fish scraps were not contemplated in the EPA document and are not covered by the fish meal ELG. (Ref Nbr ***10 & 11***)

DEQ Response: DEQ determined that the menhaden and anchovy was the most appropriate species for use in fish meal facilities.

Comment: The table also lists "Packing and Freezing whole-fresh, farmed, or wild-caught mollusks (i.e., clams, oysters, and mussels)" as a covered process, but no TBEL associated with or further mention of this process is contained in either the Draft Permit or the fact sheet.

The market for singles (in-shell, unshucked oysters) has increased over the years and is expected to continue.

As the demand increases for singles, the volume of shucked oysters processed at Pacific Shellfish - Tillamook in relation to singles decreases, and therefore the make-up of facility wastewater is projected to be more water from drum-washing of singles than from the shucking of oysters.

Table 1 "Summary of Processes Covered", "[p]rocessing oysters via hand / shucking" is covered under the proposed 900-J and has an associated TBEL.

The ELG development document acknowledges that " [o]ysters are marketed in the shell", but does not address the in-shell market in the development documents any further. In consideration of:

Past petitions by the industry for coverage of the in-shell market; and

Discussion in the Permit Writer's Manual of TBEL development for unregulated wastewater

streams,
Why is the drum-washing of in-shell oysters being omitted from this permit? If Whole Frozen Raw Shrimp and Whole Frozen Fish are covered by the permit, why has DEQ not included the drum-washing of oysters?

The Permit Evaluation Report addresses this process on Page 18, "After careful review, DEQ concluded that in-shell oysters are not regulated by subparts Y and AA of the federal ELGs and would not be appropriately controlled by these ELGs. DEQ determined that a TBEL for in-shell oysters would not be appropriate because the weight of shucked oysters is not a reliable predictor of whole in-shell weight. As a result, the permit does not include production-based limits for processing in-shell oysters." Please clarify, does this indicate that wastewater from washing of oysters that are not shucked is not regulated? If so, how would a facility that processes half shucked and half unshucked oysters evaluate compliance with the shucked oyster TBEL? Would it divide its waste load in half when comparing to the shucked oyster ELG? This would be in line with the method described in the permit for a multi-species facility, just that one of the species doesn't have an associated TBEL.
If there are no limits associated with unshucked oysters and the proportional method described above is not acceptable, then the following comments from the prior iteration of Draft Permit are still applicable: Pacific Seafood believes DEQ had ample time to request or collect wastewater effluent data from Oyster processors in Oregon while the Draft Permit was being revised, and this data could have been used to develop a TBEL.

- Although EPA did not assign a TBEL to this market sector, it does not necessarily suggest that assignment of a TBEL is inappropriate. Rather, it likely indicates that this market sector was not significant enough to warrant an allocation of resources.
- Facilities in Oregon that produce both in-shell (singles or unshucked) and shucked oysters typically process shucked oysters from the raw product that remains after singles have been sorted out and selected. This means that wastewater generated in the intake, cleaning, and cluster reduction steps is the result of processing raw product that includes both shucked and in-shell product.
- The Permit Writer's Manual (page 5-3 7) clearly makes a case for the use of "[Best Professional Judgment] to establish a TBEL for the unregulated wastewater stream" that is directly applicable in this instance.
- The development document discusses wastewater generation from intake, washing, and shucking unit processes. EPA acknowledged that oysters are "washed by nozzles suspended above the conveyor belt."

Clearly, the intake and washing processes generate wastewater - the same amount for shucked and unshucked oysters. Therefore, processing of unshucked oysters should receive a TBEL. The intake and washing processes are similar to receiving/offloading processes for fish processing. In this sense, unshucked oysters are equivalent to fish that are offloaded but not processed on the same day of offloading. Facilities offloading fish but not processing them are receiving the TBEL for the offloaded fish, and facilities that intake and wash oysters, but don't shuck them, should also receive the TBEL for oysters. (Ref Nbr 14)

Comment: Another comment on TBELs is that we need to be looking at getting TBELs for all processes. So one question that I have is in the permit evaluation report it talks about un-shucked oysters and I'm not sure if I'm reading it correctly and it appears that there is no TBEL for un-shucked oysters which I'm interpreting to mean that if you had a facility that was only unshucked oysters you would have no limits because there's no TBEL. But how does that apply to a facility that processes from shucked and un-shucked. So they're getting wastewater from both processes but there's no TBEL. Do they then somehow divide the total waste-load by the percentage of shucked versus un-shucked, come up with an evaluation of whether you're in compliance with the shucked oyster TBEL? (Ref Nbr O3)

DEQ Response: Please see section 8.3 through 8.9 of the permit fact sheet for a full description of DEQ application of ELGs and development TBELS. Contrary to the comments, DEQ did develop a TBEL for In-shell oysters and that is described section 8.6.

Comment: Page 20, Section 8.7.1, Why is a TBEL needed: Is DEQ only willing to establish TBELS for process variations, i.e. a sub-process of a process with an existing ELG, and/or is very similar to an existing ELG? (Ref Nbr 10& 11)

DEQ Response: DEQ is using the existing TBELs as they best apply to different species. The spreadsheet calculator accounts for this.

Comment: Page 21, Section 8.7.2, How was the DEQ TBEL developed?: In the second to the last bullet point: "When using EPA' s statistical approach, which relies on a significant data set, it is not credible to perform analyses using summarized or estimated loadings and ranges of technological efficacy." Please clarify. (Ref Nbr 10& 11)

DEQ Response: This bullet point is part of a larger summary of the process DEQ used to develop a TBEL for whole frozen raw shrimp. The bullet point above states that DEQ did not have full data sets yet so, in context, this bullet point on EPA's statistical approach is saying that without a full data set, DEQ did not find it credible to use summarized or estimated data when the statistical method that required a full data set.

Comment: Page 22, Section 8. 7.2, How was the DEQ TBEL developed?: DEQ has assumed that for a given process that the organic loading and flow are the same, i.e. if you have a waste stream that represents 29% of the flow, then it represents 29% of the pollutant load. This is an inaccurate assumption. DEQ is also being inconsistent in the development framework for promulgating TBELs. (Ref Nbr 10& 11)

DEQ Response: With the limited amount of data collected under the 2006 900-J, DEQ made some assumptions about flow relating to load. It is DEQ's determination that this assumption appropriate for the renewal of the 900-J as it is a general permit.

Comment: Page 24, Section 8.8 Application of ELGs as TBELs in this Permit continued, Fishmeal section in Table 8-4: The description is not consistent with the rest of the table. Common Names and Species should be 'primarily whole Mendhaden and/or Anchovies', and the Process Type should be 'rendered with or without solubles plant' (Ref Nbr 10& 11)

DEQ Response: DEQ explained in the fact sheet (section now renumbered as 8.4; previously 8.5) that, based on the development document, DEQ interprets this subpart to have broader applicability to other species besides menhaden and anchovies. No change was made to the permit or fact sheet in response to this comment.

Comment: Page 28, Section 8.11.3, Single Species/Process type Calculations: The second bullet point refers to pounds of pollutant per 1,000-pounds production-Is this the same as the pounds of Seafood referenced in the CFRs? Are the pounds of Seafood referenced in the CPR the same as the pounds of raw material referenced in the CFRs? Are the pounds of raw material referenced in the CFRs the same as the pounds round or landed weight of seafood?. Please clarify. (Ref Nbr 10 & 11)

DEQ Response: The "pounds of seafood" refers to the raw product.

Comment: Page 29, Section 8.11.4, Multiple species/Process Type Calculations: This is a mathematical calculation. It creates a limit that is NOT based on the EPA protocol that requires characterizing the waste stream, selecting the appropriate model technology, determining the achievable percent reduction in pollutant load and then deriving the permit limit based on this information. (Ref Nbr 10 & 11)

> ***DEQ Response:*** The EPA protocol did not consider multi-species processors. DEQ's goal is to provide a calculation in our calculator that is representative of the wastewater discharge.

Comment: Page 30, Section 8.11.5, Tips for Completing the Compliance Calculation Spreadsheet: Regarding the third bullet point, "Enter the amount of production ... " the word 'Production ' is too vague and does not follow the terminology used in the CFRs. (Ref Nbr 10 & 11)

> ***DEQ Response:*** DEQ has determined that the term "production" is appropriate as it refers to the seafood being processed into a product.

Comment: Page 31, Section 8.12, Oregon Highest and Best Practicable Treatment: DEQ needs to prove that the model technologies on which the ELGs and TBELs are based satisfy "Oregon Highest and Best Practicable Treatment". (Ref Nbr 10 & 11)

> ***DEQ Response:*** OAR 340-041-0007(1), was originally adopted in 1967, predates the 1972 Clean Water Act and had largely been superseded by more stringent federal control technology requirements, requires highest and best practicable treatment and/or control of wastes, activities, and flows to maintain the overall water quality at the highest possible levels and deleterious factors (e.g., temperature, toxics) at the lowest possible levels. While this is evaluated on a case-by-case basis and additional state or federal regulations may apply, DEQ generally uses EPA technology-based effluent limitations to make this evaluation. For industrial facilities, highest and best practicable treatment includes any process with results equivalent to EPA technology-based effluent limitation guidelines (ELGs). These ELGs are based on the demonstrated performance of a reasonable level of treatment that is within the economic means of specific categories of industrial facilities nationwide. By implementing the applicable federal ELGs in the 900-J, DEQ finds that the processors covered by this permit meet the intent of OAR 340-041-0007(1).

Comment: Bacteria limits are also presented as benchmarks in the new version (as opposed to limits in the 2018 draft). As previously indicated, water-based recreational activities occur adjacent many of these processing plants. It's unclear how this bacteria benchmark protects these types of recreational activities. While the benchmark applies to areas of shellfish harvest, it's not clear how or if the benchmark applies to protecting other recreational activities. Our bays and estuaries offer Oregonians critical and unparalleled recreational opportunities that need to be accounted for in mapping and applying areas with bacteria standards. Furthermore, bacteria is a significant indicator and important criterion that can be easily monitored and mitigated for in effluent discharge, thus establishing clear limits should not be beyond the agency and industry for compliance. (Ref Nbr 5)

> ***DEQ Response:*** DEQ included bacteria benchmarks in the 900-J for protection of shellfish harvesting (fecal coliform) and recreation (*E. coli* for freshwater and enterococcus for salt water). If a benchmark is exceeded the processor is required to investigate further to determine whether the bacteria is from their operation or due to wildlife attracted to offloading operations or other activities in the area. No change was made to the permit or fact sheet as a result of this comment.

Comment: Additional concerns about the general permit's shortcomings in protecting water quality

- DEQ failed to establish effluent limits based on and that will ensure the protection of designated uses. 40 C.F.R. §§ 122.4, 122.44(d)(1); OAR 340-041-0340.
- DEQ failed to establish effluent limits based on, and that will ensure compliance with, the numeric water quality criteria. 40 C.F.R. §§ 122.4, 122.44(d)(1); OAR 340-041-0028.
- DEQ failed to establish effluent limits based on, and that will ensure compliance with, the narrative water quality criteria. 40 C.F.R. §§ 122.4, 122.44(d)(1); OAR 340-041-0007(10), 0033(1).

(Ref Nbr 13)

DEQ Response: As discussed in the fact sheet, DEQ did not have adequate data to propose water quality-based effluent limits for all of the seafood processing operations covered by this permit. DEQ included water quality-based benchmarks to protect water quality and monitoring requirements to collect additional discharge data. Upon renewal of the permit, this data will be reviewed to determine if the operations covered by this permit have the reasonable potential to exceed water quality standards.

Comment: Page 33, Section 9.4, Water Quality-Based Effluent Limitations: Which WQBELs are applied at End of Pipe vs. Edge of Mixing Zone? (Ref Nbr 10 & 11)

DEQ Response: As stated in section 9.4 of the fact sheet, DEQ is not including water quality-based effluent limits in this 900-J permit renewal. Typically, WQBELs are calculated based on the dilution afforded by a mixing zone and apply at the compliance monitoring point (e.g., a point prior to leaving the property).

3.3.7 Schedule A: Waste Discharge Requirements

Comment: The seafood industry creates significant economic and social value to Oregon's coastal communities and the state as a whole. Oregon's commercial fishing industry is responsible for more than:

- 15,000 jobs (mostly located in economically-depressed coastal areas)
  $205 million in total personal income (2015)
  10% of net earnings on the Oregon Coast (and as high as 20% in some areas) (2015)
  $53.6 million in traded sector activity (2015)
  Seafood processors take deliveries from over 1,100 commercial fishing vessels in Oregon, and the top 5 processors are responsible for 77% of purchases (by value) of all fish landed onshore in Oregon. (2015)

Wastewater treatment system requirements imposed by the proposed Permit, particularly those related to meeting bacterial limits, will require significant modifications to wastewater handling systems and installation of new treatment equipment that may cost as much as $4 million per facility. Even then, due to the inherent uncertainty associated with using test methods not designed for seafood processing wastewater, violations may still be relatively common due to chance associated with the uncertainty.
It can be assumed that operational costs for labor from skilled treatment plant operators, treatment chemicals, and sludge disposal from a DAF system would approach $100,000 per month of operation. Chemical requirements in a DAF system would likely result in landfill disposal of solids, as DAF systems cannot operate at sufficient efficiency to meet effluent limits without using polyacrylamide polymer flocculants that are not acceptable in re-use streams.

The capital costs of siting new wastewater treatment buildings in highly-competitive, waterfront real estate markets as well as the lost revenue from process disruption would likely be prohibitive.
DEQ has not performed an economic impact assessment of the proposed conditions of the Draft Permit,

which could adversely affect the economy of coastal communities that rely heavily on the seafood industry and the various service industries that support it. (Ref Nbr 14)

> ***DEQ Response:*** DEQ understands of the economic impacts of the seafood industry on state and local communities. The federal Clean Water Act requires that the NPDES permit program to protect water quality from point source discharges of pollutants. Federal regulations and state statute and rules do not require an economic impact assessment for the development of a NPDES permits. DEQ has provided extended schedules for compliance with the new requirements in the general permit renewal as well as allowed the industry to collect additional data prior to setting water-quality based effluent limitations. DEQ has also worked with facilities that have been unable to consistently comply with permit requirements to achieve compliance and will continue to do so.

Comment: Page 34, Section 10.3.1, Background: The first sentence in this section should be clarified as follows- "Ammonia may be found in seafood processing plant effluent if ammonia based cleaners or sanitizers are used during cleanup, and it may also be present in the wastewater as a result of the breakdown of seafood proteins. Chlorine may be found in seafood processing plant effluent as a result of using chlorinated tap water as provided by the city and if chlorinated cleaners or sanitizers are used during cleanup. " (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** DEQ expanded language in the fact sheet to recognize that ammonia and chlorine may come from other sources as described above.

Comment: Page 36, Table 10-3: Will the benchmarks in the IP be different than the GP and will they be site specific based on a mixing zone study? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** DEQ has many tools to ensure water quality is protected and could use benchmarks in an individual permit if warranted. However, no such decision has been made to this effect because an individual permit requires a site-specific analysis of the receiving water and nature of the discharge

Comment: Page 37, Section 10.4.2 Benchmark approach and applicability: Please define "a seven day rolling seven day average maximum temperature benchmark of 20°C ..... " This doesn't seem to be the same wording as in Table 10-4. (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** DEQ revised the fact sheet paragraph and table to make the terminology consistent by using “the seven-day rolling average of daily maximum temperatures”.

Comment: Page 38, Section 10.5.2, Benchmark Approach continued, Item 2) additional monitoring of the applicable bacteria species to determine the origin of fecal bacteria: How will the proposed monitoring determine the origin of fecal bacteria? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** The intent of the language is to determine what areas of facility are producing fecal bacteria in seafood processing wastewater. If high levels of bacteria are found in the wastewater, we can conclude that it is from the processing facility.

Comment: Page 38, Section 10.5.4, Response to Benchmark Exceedances: Are all the milestones counted from the issuance date of the permit? Or are they based on specific calendar dates? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** All milestone are based on the date of assignment to the general permit.

Comment: Page 39, Section 10.5.4, Response to Benchmark Exceedances continued: Are End of Pipe bacteria exceedances now subject to mixing zones and dilution, not just End of Pipe? If a permittee under the General Permit does a mixing zone study will DEQ consider this information in assessing benchmark exceedances? Will DEQ waive the requirement for Level 1 corrective action plan for the duration of the permit? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** As stated in the fact sheet, a registrant could use its mixing zone study and discharge data to support that its discharge did not impact shellfish harvesting areas on the day or month fecal coliform benchmarks were exceeded. This is only applicable to fecal coliform; it does not apply to *E. coli* or enterococcus. Also as stated in the fact sheet, in no case will DEQ remove the benchmark or monitoring requirements from the permit for a particular registrant. Such an action would require public notice and is not appropriate because this is a general permit. General permits are not developed for an individual activity.

Comment: We have processing facilities in the state of Washington, just on the other side of the mouth of the Columbia River, same industry, same processes, same discharge into the same body of water. They do not have some of the bacteria limits that are being proposed. And they have a mixing zone. It is unacceptable from a business perspective to put our industry at a competitive compared to our neighbors, in the state of Washington who are doing the exact same thing. DEQ has said that they are implementing these water quality limits based on their interpretation of this rule and the policy that's been established through the agency. (Ref Nbr O2)

> ***DEQ Response:*** Oregon and Washington are allowed by EPA to implement the Clean Water Act in accordance with state-specific water quality standards.

Comment: Page 39, Section 10.7 Ground Water Protection: This permit requirement is too broadly written: ·we would like to clarify that the obligation of the registrant should be limited to sending their seafood process residuals to permitted waste disposal facilities. (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** The obligation of the registrant is not limited to sending their residuals to permitted waste disposal facilities. The registrant has an obligation to ensure that any reuse or recycling of residuals is done in a manner that is protective of specifically groundwater (schedule A, condition 3) and generally of all waters of the state (schedule F, condition B8).

Comment: Page 40, Section 11.1, Tiered Approach to Monitoring and Reporting: in the Table Basis of Tiers for Monitoring and Reporting Requirements, is the volume of flow based on the maximum daily flow for the year? Or the maximum average daily flow for the year? For average daily BOD loading, can we assume that the calculation is done using only sample days? Some processors were told in the past to sample not only on processing days but to also sample during months where there was no processing, but there was discharge. Can we include these sample days in the calculation? Will DEQ continue to require sampling during non-production months when there is discharge? Regarding Total Annual Loading in pounds per year-how is this calculated? (Ref Nbr ***10 & 11***)

> ***DEQ Response:*** DEQ will request additional information from existing registrants if needed once the 900-J renewal is issued and will provide assistance for processors as they update their applications. Each processor will be assigned a tier based on this data. The process will be based on the best professional judgment of DEQ.

Comment: Page 42, Section 11.6, Permit Renewal Monitoring Requirements: Please clarify whether the additional monitoring requirements are required at the start of or at the expiration of the soon to be issued permit. (Ref Nbr ***10 & 11***)

DEQ Response: As stated in the permit, unless otherwise approved by DEQ in writing, the owner or operator must submit to DEQ the information listed in Table 2 and Schedule B, Table B3, of the permit at least 180 days before this permit expires. DEQ has added this information to the fact sheet.The additional monitoring is required upon assignment of coverage the renewed 900-J permit.

Comment: Page 42, Section 11.8, Minimum Reporting Requirements: Will the registrants be required to hand in a "no processing/no discharge" DMR when there is no processing? Or, hand in a "no processing" DMR when there is no processing, but there is discharge? And hand in the usual DMR when there is both processing and discharge? Will the registrant be required to sample during no processing months and report the concentrations and flows when there are no limits? (Ref Nbr ***10 & 11***)

DEQ Response: DMRs must be submitted each month regardless of the registrant's status (e.g., processing or not, discharging or not). See Schedule B of the permit for reporting requirements.

Comment: Page 43, Section 13.1, Mixing Zone Study for Tiers 1 and 2: Would it benefit the registrants to do a mixing zone study as soon as possible because of the benchmarks and potential exceedances? (Ref Nbr ***10 & 11***)

DEQ Response: It may be beneficial for some facilities to perform a mixing zone study sooner that the permit requires. If outfall improvements are needed, it may work out well for the company to have more time to complete them.

Comment: Page 43, Section 13.3, Environmental Supervisor: What is a disposal facility in this context? What is cleaning wastewater? (Ref Nbr ***10 & 11***)

DEQ Response: To avoid confusion or debate over the terms used in this condition, DEQ has simplified this requirement. The registrant is required to designate a person to coordinate and/or carry out all necessary functions related to "maintaining compliance" with the 900-J.

Comment: Page 43, Section 13.6, Treatment System Residuals Management: Schedule F, Condition 8 of the 2006 permit obligated the registrant to ensure that the system residuals do not have an adverse impact on the environment. Complying with the new source standard ELGs will require the permittees use the equivalent treatment to the model technology determined by EPA which is Dissolved Air Flotation. In order to achieve the pollutant reduction anticipated by EPA the permittees will need to use chemicals to treat the wastewater that will result in a sludge that can have an adverse impact on the environment. (Ref Nbr ***10 & 11***)

DEQ Response: DEQ understands that some residuals from treatment will be solid wastes. But removal of solids before they land on the floor or otherwise enter the wastewater treatment system can lead to cleaner wastewater and additional useable product and will reduce the amount of system residuals.

3.3.8 Schedule B: Minimum Monitoring and Reporting Requirements

Comment: These proposed metrics relate directly to the production and the applicable effluent limitation guidelines are also based directly on production (in units of lbs. pollutant/1000 lbs. of production). Therefore, the permit could be simplified by basing the tiered monitoring and reporting requirements directly on a facility's production rather than multiple discharge variables required in the permit. In

addition, the permit as drafted, does not indicate which tier would apply when a facility falls under multiple tiers based on the four metrics. Without further justification, the EPA recommends that the frequency of monitoring be based on production only (e.g. an average of total production). Otherwise, DEQ must indicate how a tier would be assigned in the event a facility could be categorized under multiple tiers, presumably the lowest tier would applied. (Ref Nbr 7)

> ***DEQ Response:*** The registrant is required to monitor and report based on the tier they have been assigned by DEQ upon approval of permit coverage. DEQ will assign a tier based on the registrant meeting all four categories. If the registrant does not meet all four categories, DEQ will assign the lower tier. DEQ has added this clarification to the permit.

Comment: So if we're to meet permit limits we need to make sure our units of measurement are consistent and accurate. So the limits are expressed as pounds limit, let's pick TSS divided by thousands of pounds, whole crab processed to pick meat. You noticed I've made the ELG a hell of a lot more descriptive, because that's really what the ELG. It's pounds limit TSS per thousand pounds whole crab processed to pick meat. If you multiply this, when you're calculating limits by the actual thousands of pounds of whole crab processed to pick meat. This equals that happens here, these units here cancel these, am I correct? And you're left with pounds, actual pounds limit TSS. (Ref Nbr O2)

> ***DEQ Response:*** The raw product offloaded from the ships is the value to be used in the pounds/1000 pounds calculation.

Comment: First, the monitoring/sampling requirements proposed in the draft 900-J permit, particularly for Tier 1 facilities, are overly complex, operationally infeasible, and when implemented, will result in non-compliance virtually across the board. Implementing a permit that puts the vast majority of the industry out of compliance on Day 1 is an ineffective management practice; it does not achieve any conservation/management objectives, and it redirects resources and manpower in an inefficient manner, which is wasteful and unacceptable. The proposed monitoring/sampling requirements represent an eight-fold increase from current requirements and will be extremely challenging – and logistically impossible to meet in some cases. As you know, seafood processors are often in remote locations where it is difficult to get samples to a laboratory in a timely manner, and shipping times/days for laboratory testing are limited. Additionally, seafood processing often does not occur on a daily basis. The requirement to collect samples twice weekly for every type of seafood processed will create significant problems for facilities that only process some species seasonally or opportunistically. (Ref Nbr 12)

> ***DEQ Response:*** The TBELs in the renewed 900-J permit are the same as the ones in the expired permit. The calculation spreadsheet does not impose any more stringent limitations on the permittee. DEQ understands that monitoring and reporting has a significant impact on the industry. DEQ has written the permit to be consistent with other discharges of similar size and complexity throughout the state.

3.3.9 Appendix A: 2012 303(d) Impairments by Water Body

Comment: Proposed permit has incomplete list of impaired waterways. We are concerned that the Chetco River is not included in Appendix 1 of 303d impaired streams in your permit. Please make sure to add it so future DEQ staff and permit applicants are well informed about the pre-existing impairments in the estuary of this waterway. According to Oregon's 2012 Integrated Report, the Chetco is 303d listed and limited for both Biological Criteria and Temperature. Based on our own observations, we are concerned that these conditions may be even worse now than they were when last assessed. (Ref Nbr 13)

DEQ Response: The table referred to in the fact sheet is for existing processors covered by the current 900-J issued in 2006; it is not intended to be a comprehensive list of every 303(d) listed waterway along the coast. Processors operating under a DEQ compliance order will be evaluated with full consideration to the applicable 303(d) listings.

3.4 Comments from Specific Processors

Comment: Charleston is a multi-species processing facility. The compliance calculation method proposed by DEQ in the previous Draft Permit determines an exceedance for all species/process types or none at all, solely to accommodate electronic reporting. It is not clear whether this is still the proposed method in this permit. Please clarify. Charleston processed multiple species on approximately 44% of all process days between 2013 and 2016. This method would be contrary to the guidance in the Permit Writer's Manual and does not consider or accurately reflect conditions in the facility. Results of implementing this compliance calculation method are likely to include:

- Unsubstantiated violations of multiple individual species permit limits that cannot be differentiated in a single combined effluent or independently evaluated for compliance (applicable to 44% of historical process days);
- Misdirection of troubleshooting efforts; and
- Misallocation of facility resources toward unnecessary corrective actions resulting from false blame by the compliance calculation method.

Comment: Two of the Pacific Seafood -Newport, LLC (Newport) buildings have the capability to perform as multi-species processing facilities. The compliance calculation method proposed by DEQ in the prior Draft Permit determines an exceedance for all species/process types or none at all, solely to accommodate electronic reporting. It is not clear whether this is still the proposed method in this permit. Please clarify. This method would be contrary to the guidance in the Permit Writer's Manual and does not consider or accurately reflect conditions in the facility. Results of implementing this compliance calculation method are likely to include:

- Unsubstantiated violations of multiple individual species/process permit limits that cannot be differentiated in a single combined effluent or independently evaluated for compliance;
- Misdirection of troubleshooting efforts; and
- Misallocation of facility resources toward unnecessary corrective actions resulting from false blame by the compliance calculation method.

Comment: Two of the Pacific Seafood -Newport, LLC (Newport) buildings have the capability to perform as multi-species processing facilities. The compliance calculation method proposed by DEQ in the prior Draft Permit determines an exceedance for all species/process types or none at all, solely to accommodate electronic reporting. It is not clear whether this is still the proposed method in this permit. Please clarify. This method would be contrary to the guidance in the Permit Writer's Manual and does not consider or accurately reflect conditions in the facility. Results of implementing this compliance calculation method are likely to include:

- Unsubstantiated violations of multiple individual species/process permit limits that cannot be differentiated in a single combined effluent or independently evaluated for compliance;
- Misdirection of troubleshooting efforts; and
- Misallocation of facility resources toward unnecessary corrective actions resulting from false blame by the compliance calculation method.

(Ref Nbr 14)

DEQ Response: The calculator was updated between the 2018 and 2019 versions of the permit. The 2019 version sets a ratio between multiple species and processes. This version of the calculator is more representative of the separate wastewaters from each process. The calculator spreadsheet is being updated to assure accuracy and will be reposted when the permit is issued.

Comment: The ELG development documents evaluated Oregon Dungeness crab facilities in 1971 and 1972 with an average production rate of 7 tons/day. The Charleston facility processed an average of 9.3 tons/day between 2013 and 2016. However, annual maximum daily productions in this period were 16, 55, 17, and 55 tons/day for 2013, 2014, 2015, and 2016 respectively. The ELG development documents do not present data indicating that this scale of Dungeness crab production was contemplated by EPA in evaluating the industry. Furthermore, the data presented, when compared to Alaska facilities, indicates that the extent to which EPA evaluated the Oregon Dungeness crab processing facilities was cursory. (Ref Nbr 14)

DEQ Response: If a processor applies for an individual permit, DEQ will review the application at that time and will determine the applicability of the federal Effluent Limitation Guidelines at that time. DEQ cannot change the federal ELGS for seafood processing. If an individual permit is applied for, DEQ may determine that it can and should set benchmarks instead of limits or use a compliance schedule for the water quality based effluent limits (these tools cannot apply to technology based effluent limits). But these decisions cannot be made in the absence of a complete individual permit application. For an individual permit, DEQ could set a site specific mixing zone. In this case, limits would be set at the end of the pipe based on compliance with Water Quality standards at the regulatory mixing zone.

Comment: On Table 2, Page 8, there is a renewal application requirement of an “Excel spreadsheet of the last 3 years’ effluent data, including flow data.” The Bandon Pacific facility will be installing a treatment system at the facility that will drastically change the effluent loading discharged by June 30, 2020 as part of a Mutual Agreement Order (MAO). Will DEQ still require data from prior processing years be submitted despite changes to the wastewater treatment system? If so, how will that data be relevant? If Charleston is categorized as a Tier 1 based on the current discharge and the assignment “remains fixed and unchangeable for the term of the permit cycle, and determines the monitoring parameters and frequency" then there will be no regulatory motivation to continue improving treatment once the system is in place and the facility is in compliance. This appears to go against the intent of the Clean Water Act. Allowing processors to move between tiers would incentivize companies to limit wastewater loading and flows. (Ref Nbr 14)

Comment: On Page 8, there is an application requirement for an "Excel spreadsheet of the last 3 years effluent data including flow data." As the new facility in Warrenton is currently under construction and we will not have 3 years of effluent data relevant to that facility, how does DEQ expect that requirement to be fulfilled? The Warrenton facility does not have any cooking operations. It should not be required to monitor, record, and report hourly temperature data. The Warrenton facility installed ozone disinfection systems to get away from chlorine disinfection; however, the proposed residual chlorine test method also detects ozone; therefore, this method is not appropriate. Requiring testing for total residual chlorine will be highly problematic. If we are categorized as a Tier 1 facility based on our projected discharge and that is "assigned by DEQ, remains fixed and unchangeable for the term of the permit cycle, and determines the monitoring parameters and frequency" then we will have no regulatory motivation to continue to improve once the treatment system is in place and in compliance. This appears to go against the intent of the Clean Water Act. (Ref Nbr 14)

DEQ Response: All existing applicants for the 900-J will be asked to update their existing applications. This provides an opportunity for the applicant to update DEQ on new treatment

systems and other changes that would impact the selection of the tier before registration under the permit is granted. New applicants with new operations will follow the application requirements described in the permit. Tiers are defined in the permit and a new operation will need to estimate average BOD loading, average volume of effluent flow, duration of operation and annual BOD loading based on projections. In section 10.4 of the permit fact sheet, DEQ describes the impact of heated water and the known sources: cooking and cleaning. At this time, the permit includes a benchmark, not a limit. Data from facilities registering for coverage under the general 900-J permit is important for the evaluation of whether future version of this general permit need a temperature limit. Regarding false positives from the use of the chlorine method at facilities that use ozone for disinfection, DEQ will work with those facilities to find an alternate method if needed.

Comment: Warrenton has installed an innovative byproduct collection and wastewater treatment system using state of the art, modem equipment that has a focus recovering byproduct and keeping byproduct out of the wastewater, to provide a more sustainable and environmentally friendly operation. It uses a treatment system similar to DAF, installed at considerable expense, but this system is designed to not use toxic polyacrylamide polymers so that the sludge recovered from the system is suitable for use as by-product rather than disposal in a landfill. Based on the inapplicability of aerated lagoons and the use of new, more modern wastewater treatment processes, new TBELs should be developed for this facility to reflect the changes in modern practices. (Ref Nbr 14)

DEQ Response: DEQ applauds the innovation of byproduct collection. There are a few factors that make the Warrenton plant unique: large volume of seafood processed, types of seafood processed, location of the facility, new processing and wastewater treatment equipment and the emphasis on making as much useable product as possible. This facility also holds an individual permit (Pacific Surimi) for a completely separate product line. The general 900-J permit was developed to address similar facilities producing similar products and wastewaters. In may not be the appropriate permit for the Warrenton facility. DEQ will work with the facility at the time of application to have a more specific conversation about which kind of permit best fits the facility.

Comment: Da Yang operates on leased property for the Port. Is it correct to assume that the Port is the responsible party for securing a Stormwater permit. (Ref Nbr 11)

DEQ Response: The DEQ stormwater program regulates discharges of stormwater associated with industrial activity. As such, the entity engaging in the industrial activity is ultimately responsible for obtaining permit coverage. However, property owners may also apply for stormwater permit coverage and cover their tenants with their permit provided the property owner has authority to take action to ensure compliance with the permit.

Comment: The Hallmark plant is currently covered under existing source standards. If DEQ promulgates new TBELs that are not associated with an existing ELGs, will DEQ promulgate existing and new source standards for the new TBELs? (Ref Nbr 10)

DEQ Response: DEQ has no plan to adopt through rulemaking industry-specific effluent limit guidelines for existing and new sources; this is an EPA process. DEQ may develop technology-based effluent limits based on its best professional judgment during the NPDES permitting process.