

Response to Comments

2018 Proposed NPDES 900-J

By: David Feldman, Mer Wiren, and Tim McFetridge

July 2018

Edited 2019

Note:

The 2018 NPDES 900-J was substantially revised in response to comment and a new public participation period was held in 2019. This response document is provided as a courtesy to previous commenters. It is not the official response to comment for the 2019 900-J renewal to be issued in **October 2020**.

Oregon DEQ

700 NE Multnomah St.
Suite 600
Portland, OR 97232
Phone: 503-229-5696
800-452-4011
Fax: 503-229-5850
www.oregon.gov/DEQ

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

This report prepared by:

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
1-800-452-4011
www.oregon.gov/deq

Contact:
David Feldman
503-229-6850

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

Table of Contents

1	Overview.....	1
2	List of Commenters.....	1
3	General Comments.....	4
3.1	The new environmental regulations in the 900-J are too restrictive.....	4
3.2	The 900-J permit is too complex.....	4
3.3	Comments related to individual permits.....	5
3.4	Why doesn't permit calculate mass load limits based on design capacity.....	6
3.5	The tiers create an uneven playing field between the processors.....	6
3.6	Tier assignments should not be permanent.....	7
3.7	Suggested changes to the fact sheet.....	7
3.8	Comments regarding the recreational sportfish cleaning station provisions.....	9
3.9	Definition of "adequately dispersed into the receiving water body".....	9
3.10	Definition of terms related to recreational sportfish cleaning stations.....	10
3.11	Comments on cover page.....	10
3.12	Other general comments.....	13
4	Comments Regarding the Process for Developing the Draft Permit.....	14
4.1	Economic analyses not conducted for the 900-J permit renewal.....	14
4.2	The 900-J permit developed in an "arbitrary and capricious" manner.....	15
4.3	A working industry group is needed to address processors' concerns with the 900-J permit....	16
4.4	Waste from dissolved air floatation treatment isn't usable for anything else.....	16
4.5	DEQ failed to demonstrate environmental harm from seafood processor effluent.....	17
4.6	The permit was not developed using science-based approaches.....	17
4.7	Cumulative effects from all seafood processors not considered for the 900-J renewal.....	18
4.8	Questions regarding how the permit will be enforced.....	18
4.9	Comments related to production data and technology based effluent limits.....	19
4.10	Application of a TBEL for whole in-shell oyster processing.....	19
4.11	Comments on how the fishmeal ELGs are applied in this permit.....	21
4.12	Timing for complying with the technology-based effluent limits in the 900-J permit.....	23
4.13	The public notice period for the 900-J permit was too short.....	23
4.14	The time taken to renew the permit was too long.....	24
4.15	The short time to renew the permit means the seafood industries' concerns were ignored.....	24
5	Schedule A.....	24
5.1	Comments regarding the mixing zone applied in the draft permit.....	24

5.2	Bacteria limits misapplied in the draft 900-J permit.....	25
5.3	Quality assurance/quality control requirements for schedule A of the 900-J permit.....	26
5.4	Compliance with the chlorine limit in the 900-J permit	26
5.5	Comments regarding the fisheries enhancement provisions in the permit.....	27
6	Schedule B.....	28
6.1	Questions about collecting representative samples of the effluent	28
6.2	The use of significant figures in the draft 900-J permit	28
6.3	The 900-J contains permit parameters extraneous to seafood	29
6.4	Comments regarding the multi-species monitoring requirements for Tier 1 registrants in the 900-J permit.....	30
6.5	Difficulties complying with the reporting requirements in the draft 900-J permit	30
6.6	Comments regarding the compliance calculations in the permit	31
6.7	Concerns with the proposed temperature monitoring for the Tier 1 registrants	32
6.8	Questions regarding sampling methods required for compliance with the ammonia, chlorine, and mixing zone requirements of the proposed 900-J permit.....	33
6.9	Questions regarding Sampling Methods Required for Compliance with the Bacteria Requirements of the Proposed 900-J Permit	33
6.10	Timeframe for Submitting Monthly DMRs	33
6.11	Suggested corrections to the permit.....	34
7	Schedule C.....	35
7.1	Comments regarding the compliance schedule in the draft 900-J permit	35
8	Schedule D.....	35
8.1	Proposed edits to Schedule D.....	35

1 Overview

The Oregon Department of Environmental Quality (DEQ) prepared a draft permit to renew the existing version of the 900-J permit. That permit covers discharges from seafood processors to waters of the state of Oregon. The public notice comment period was scheduled to close March 29, 2018. The comment period was extended to April 13, 2018 and again to 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 on: March 14, 2018 in Newport, OR, March 15, 2018 in Coos Bay, OR, and March 19, 2018 in Astoria Oregon. There were written and verbal comments submitted from 32 commenters during the public notice period. The following table lists the commenter, who they represent, and assigns a reference number to them. That reference number will be used in this document to identify the source of a comment. The list does not represent any priority of comment or sequence of receipt.

2 List of Commenters

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
1	Ismond	Alan	Aqua Terra Consultants/President	14841 SE 54 th Street	Bellevue	WA/98006
2a 2b 2c	Steele	Lori	West Coast Seafood Processors Association /Executive Director	650 NE Holladay Street, Suite 1600	Portland	OR/97232
3*	Libby	Tom	California Shellfish Co., Inc./Corporate Manager, Special Projects	P.O. Box 162	Hammond	OR/97121
4	Stinnett	Steve	Bandon Pacific, Inc., Pacific Seafood Group/General Manager	P.O. Box, 63501 Boat Basin Road	Charleston	OR/97420
5	Mireles DeWitt	Christina	Seafood Research and Education Center Coastal Oregon Marine Experiment Station/Director	2001 Marine Drive	Astoria	OR/97103
6	Bergeman	Joel	Bergeman Construction/Owner	P.O. Box 1070	Astoria	OR/97103
7	Hornstuen	Kathleen	Self	90046 Cape Arago Hwy	Coos Bay	OR/97420
8	Kennedy	Cheryle	The Confederated Tribes of the Grand Ronde Community of Oregon/Tribal Council Chairwoman	9615 Grand Ronde Road	Grand Ronde	OR/97347

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
9	Sylvia	Gil	Coastal Oregon Marine Experiment Station/ Director	2030 SE Marine Science Drive	Newport	OR/97365
10	Bowles	Ed	Oregon Department of Fish and Wildlife/Fish Division Administrator	4034 Fairview Industrial Drive SE	Salem	OR/97302
11	Plybon	Charlie	Surfrider Foundation Oregon/Oregon Policy Manager	P.O. Box 719	South Beach	OR/97366
12*	Hepburn	Max	Pacific Seafood, Inc./Wastewater Technical Support Specialist	16797 SE 130 th Avenue	Clackamas	OR/97015
13	Johnson	Betsy	Oregon Coastal Caucus/Chair	900 Court Street NE	Salem	OR/97301
14	Lidgard	Michael	United States Environmental Protection Agency Region 10/Manager, NPDES Permits Unit	1200 Sixth Avenue, Suite 900	Seattle	WA/98101
15	Cribbins	Melissa	Coos County Board of Commissioners/Commissioner	250 N. Baxter Street	Coquille	OR/97423
16	Ismond	Alan	Bornstein Seafoods/Consultant	P.O. Box 188	Bellingham	WA/98225
17	Ismond	Alan	California Shellfish Co., Inc./Consultant	P.O. Box 162	Hammond	OR/97121
18	Ismond	Alan	Da Yang Seafood/Consultant	45 Pier 2 # B	Astoria	OR/97103
19	Ross	Gordon	Self	--	--	--
20	Sweet	John	Coos County Board of Commissioners/Commissioner	250 N. Baxter Street	Coquille	OR/97423
21	Main	Bob	Coos County Board of Commissioners/Commissioner	250 N. Baxter Street	Coquille	OR/97423
22	Smith	Karen	California Shellfish Co., Inc., Hallmark Fisheries/Plant QC	63276 Charleston Avenue, P.O. Box 5390	Charleston	OR/97420

Reference Number	Last Name	First Name	Organization/Title	Address	City	State/ZIP
23	Buckley	John	Oregon International Port of Coos Bay/Charleston Harbormaster	63534 Kingfisher Road, P.O. Box 5409	Charleston	OR/97420
24	McLaren	Brian	Bandon Pacific, Inc., Pacific Seafood Group	P.O. Box, 63501 Boat Basin Road	Charleston	OR/97420
25	Baugh	Samuel	South Coast Development Council/Executive Director	500 Central Avenue	Coos Bay	OR/97420
26	Bornstein	Andrew	Bornstein Seafoods/Manager	9 Portway Street	Astoria	OR/97103
27	Englund	Kurt	Englund Marine and Industrial Supply/President	95 Hamburg Avenue, P.O. Box 296	Astoria	OR/97103
28	McGrath	Matt	Port of Astoria/Director of Operations	10 Pier One, Suite 308	Astoria	OR/97103
29	Knight	Jim	Port of Astoria/Executive Director	10 Pier One, Suite 308	Astoria	OR/97103
30	Kujala	Mark	Self	--	--	--
31	Hammer	Steve	SLR/Principal Engineer	1800 Blankenship Road, Suite 440	West Linn	OR/97068
32	Schones	Stan	Self	--	Newport	OR

* = Commenter provided oral comment and written comment.

Comments have been paraphrased and in some cases similar comments from different commenters are combined to provide a more concise document. The comments are organized into different groups:

1. General Comments
2. Comments related to the permit drafting process
3. Comments related to each section of the permit (i.e., Schedule A, Schedule B, etc.)

Copies of the comment letters 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.

3 General Comments

3.1 The new environmental regulations in the 900-J are too restrictive

Comment Summary:

Commenter noted that the increased permit requirements on seafood processors creates concerns in local coastal communities. The environmental requirements are becoming overly burdensome. (7)

DEQ Response:

The 900-J permit renewal includes some new pollutants and monitoring requirements compared to the 2006 version of this permit. This renewed version of the permit adds new pollutants because new information about those pollutants demonstrates potential harm to the environment. Ammonia and chlorine were identified as pollutants in the 2006 version of this permit but the accuracy of the method of measuring those pollutants at labs was questioned so the requirement to monitor for these pollutants was delayed. Now there are reliable analytical methods available, so monitoring for these pollutants will be required in the renewed permit. It is important to control these pollutants because ammonia and chlorine negatively impact beneficial uses. Bacteria was also added to this permit as some data shows that bacteria, which is a risk to humans when they recreate in the water or eat shellfish harvested from the water, can be present in wastewater from processors.

3.2 The 900-J permit is too complex

Comment Summary:

Several commenters stated that the draft permit creates an unnecessarily complex and restrictive permitting paradigm that makes compliance with many parts of the permit impossible without significant economic investment in untested, and unnecessary, treatment technologies. The draft permit also introduces several new, significantly restrictive pollutant limits that are not only perceived as extraneous in the context of seafood processing, but that cannot be complied with under conventional treatment methodologies and/or due to the sampling protocols mandated by the Draft permit. (2), (4), (6), (7), (12), (20), and (32)

DEQ Response:

All water quality permits for discharges to surface water need to include technology based effluent limits and water quality based effluent limits.

To create the technology based effluent limits in the draft 900-J permit DEQ applied federal effluent limitation guidelines. These included the effluent limitation guidelines listed in 40 CFR § 408 subparts H, K, M, N, O, R, S, U, V, W, X, Y, AA, AB, AF, and AD. Please refer to Sections 6.1 through 6.8 of the fact sheet for an in-depth discussion of how DEQ applied the technology based effluent limits in the proposed permit.

DEQ replaced the proposed water quality based-effluent limits with benchmarks to allow for additional data collection.

The pollutants that this permit controls can have a negative impact on the beneficial uses of the receiving water bodies, which includes recreation, and shellfish harvesting. DEQ established

permit conditions that were necessary to comply with current federal and state requirements. DEQ has tried to keep the permit flexible to accommodate the diversity of seafood processors. As a result, the permit conditions establish requirements based on number of species processed, processing technologies and pounds of product processed. This can appear complex overall, but simplifies the requirements to a specific facility because the facility finds their “tier” and follows the requirements for that tier.

Pollutants regulated under the 2006 permit, and continued in the draft renewed permit, include the conventional pollutants BOD, TSS, O&G, and pH. These pollutants were determined by EPA in 1974 to be relevant to seafood processing; data gathered from seafood processors in Oregon since then has confirmed the presence of these pollutants. Parameters included in this draft renewed permit include residual chlorine, ammonia, bacteria and temperature, which DEQ has determined are present in wastewater discharges from seafood processing. Chlorine and ammonia are in the 2006 but was exempted from monitoring until an analytical method was developed.

- Residual chlorine and ammonia: Chlorine is commonly used for cleaning for food safety. Ammonia may be used for cleaning and is a degradation product of fish flesh proteins and of fish urine. Both ammonia and chlorine can be toxic to aquatic life. The effluent limits for these parameters were developed to prevent harm to aquatic life.
- Temperature: Many seafood processors use hot water or steam in their operations or otherwise cause their discharge to be heated. Juvenile fish are especially sensitive to temperature, so a limit on the temperature of wastewater applies to all Oregon waterways. The temperature limits in this permit are protective of the fisheries present in the discharge areas.
- Bacteria: Bacteria is found in seafood processing wastewater at levels above the bacteria water quality standards, although the source of bacteria is unclear. DEQ proposed permit conditions to regulate bacteria discharges from seafood processing operations.

All of these parameters can be treated by conventional wastewater treatment practices. The conventional forms of treatment for this industry include Best Management Practices, screening, and also Dissolved Air Flotation or equivalent. When the wastewater is treated to meet the limits for the conventional pollutants, many of the challenges for disinfection of the wastewater and for sampling are avoided. The sampling methods required under this permit are documented in federal rules at 40 CFR 136. A recent memo from DEQ has provided industry specific information to avoid common errors.

DEQ recognized that the data available to establish effluent limits was limited, which resulted in the use of benchmarks. DEQ expects monitoring from this permit to provide sufficient data to establish numeric effluent limits in the next permit renewal.

3.3 Comments related to individual permits

Comment Summary:

There were comments related to how the renewed 900-J permit will relate to future versions of individual permits and facilities for seafood processors. (1), (12), and (16).

DEQ Response:

DEQ cannot comment on what permit conditions may be included in individual permits developed for seafood processors. Those permits will be addressed on a case-by-case basis.

3.4 Why doesn't permit calculate mass load limits based on design capacity

Comment Summary:

Commenters propose that the permit use the individual production design capacity of each processing facility to set the Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) limits for each facility (aka the Mass load). (12)

DEQ Response:

The permit includes calculations for the daily and monthly average mass load limits of BOD and TSS that are normalized for production based on existing federal effluent limit guidelines applicable to the seafood processing industry. This means the limit is set in pounds per thousand pounds of product processed. This approach allows the limit to reflect the volume processed while still setting the same expectation for all processors under the permit

3.5 The tiers create an uneven playing field between the processors

Comment Summary:

Commenters mentioned that the tier structure for the different seafood processors means that different facilities are treated differently under the same permit. Commenters also stated that the receiving water for each facility should be considered for determining the scale of environmental impact for each facility. Commenters requested that considerations should be included for each facility that use mixing zone studies, effluent diffusers, and best management practices. The commenters also stated that production-based tiers were arbitrary and not accurate, while another commenter recommended that the tiers be based only on the relative production level of the facilities. (1), (12), (14), and (31).

DEQ Response:

General permits are applicable to categories of dischargers with similar operations and the potential to discharge similar wastes. Such discharges are subject to similar monitoring requirements, effluent limits and operating conditions to simplify the administration of the general permit and keep fees lower for these types of permits. DEQ observed during site visits to the processors that while the wastewaters from specific seafood processes are largely similar, the volume of wastewater from processors varies. Further, some facilities only process a single species at a time while others routinely process multiple species at once. In order to provide a general permit that acknowledges and accommodates differences in scale, this permit places facilities in a tier based on certain factors described in the permit and fact sheet. All processors in a given tier have the same monitoring requirements, effluent limits and operating conditions within that tier.

Comment Summary:

The factors used to define the tiers relate directly to production, and applicable effluent guidelines are also based directly on production. Furthermore, the EPA recommends that the frequency of monitoring be

based on production only. A production-based approach is consistent with federal industrial effluent limitation guidelines rules. For industries, the federal rules are production based whereas for sewage treatment, federal and state guidance on monitoring and reporting frequency are based on the volume of effluent flow. (14)

DEQ Response:

DEQ acknowledges that production is a significant criterion, and included it as a factor to create the tiered approach in this permit. While we recognize that tiers could be based solely on production, DEQ's research into seafood processors found that some processes have more pollutant loading potential and others less. Since seafood processors asked DEQ to consider that raw product can vary widely because their product is not uniform (it is wild) and that processors need to be able to process products when the opportunity arises (even if those products are not their typical product), DEQ sought to include the load discharged in the development of the tiers.

3.6 Tier assignments should not be permanent

Comment Summary:

If a facility is categorized as a Tier 1 facility based on their projected discharge and that remains fixed and unchangeable for the term of the permit cycle, then the facility will have no regulatory motivation to continue to improve once the treatment system is in place and in compliance. (12)

DEQ Response:

DEQ will assign all registrants to a Tier based upon rate of production, flow, days of operation, and relative pollutant loads. If a registrant finds this assignment to be incorrect, DEQ will meet with the registrant and discuss the assignment in detail. Tier assignments last the entire permit cycle.

3.7 Suggested changes to the fact sheet

Comment Summary:

On Page 34, it is stated that "Table 8 summarizes the monitoring and reporting requirements for each of the Tiers." Table 8 is labeled as "Bases of Tiers for Monitoring and Reporting Requirements", this appears to be the incorrect table. (12)

DEQ Response:

This table is no longer in the fact sheet.

Comment Summary:

On Page 8 (and again on Page 15) of the Fact Sheet, SIC codes 2091 and 2092 are identified as those needing coverage under the permit. Fishmeal and concentrated fish protein facilities do not qualify for either 2091 or 2092. Instead they are classified as 2048, Prepared Feed and Feed Ingredients for Animals and Fowls, except Dogs and Cats, and/or 2077, Animal and Marine Fats and Oils. (12)

DEQ Response:

DEQ is following EPA's lead of grouping fishmeal processing and related fish residuals processing within the universe of seafood processing. EPA designated this group of industrial

activities as the "Canned and Preserved Fish and Seafood Processing Industry Point Source Category." That decision documented in the 1975 Development Documents for the Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone Segment of the Canned and Preserved Fish and Seafood Processing Industry Point Source Category, pg. 15. The guidelines were promulgated as 40 CFR Part 408--Canned and Preserved Seafood Processing Point Source Category which includes Subpart O Fish Meal Processing Subcategory. DEQ categorizes the seafood industry within Food and Beverage Processing for NPDES individual permitting (OAR 340-045-0075) and the Oregon 900-J Seafood General Permit has long followed this practice. The pollutants found in seafood processing and fishmeal and residuals processing are largely the same and are generated and treated largely the same.

SIC codes were often referenced but do not directly align with the EPA Point Source Categories as published in the technology based treatment guidelines for this or for other industries. SIC codes are revenue based and used for economic analyses. Point Source Categories relate to pollution and technological means to address pollution.

Comment Summary:

On Page 9 of the Fact Sheet, under "Table 1: Summary of Processes Covered by the 900-J Permit" it states "[h]and processing of fish, salmon, tuna, and/or squid including freeze-only processing". Is "freeze-only" processing to be considered hand (conventional) processing and not mechanical processing? (12)

DEQ Response:

In response to this comment, DEQ updated the table to make "Freeze Only Processing" a stand-alone item in the permit and not a continuation of "Hand processing." The permit fact sheet table referred to in the comment was deleted.

Comment Summary:

In the table "Summary of Processes Covered by the 900-J Permit", it is stated "[o]ffloading of fish directly for processing onsite" is covered. Occasionally raw product is offloaded at the facility's dock and trucked to another facility operated by the same parent company for processing. If dock drains receive wastewater from the offload process, it contributes to that facility's wastewater stream and therefore impacts compliance. Why is this offloading wastewater limited to processing onsite only when the raw product stays within the same company and results in similar contributions to wastewater regardless of its offload location? (12)

DEQ Response:

The permit needs to cover all discharges of wastewater within the "footprint" of facility covered under the permit. Wastewater discharged at a particular site on a given day, whether from offloading or processing, needs to be regulated to control pollutant discharges. When the offloaded product is processed, the poundage of seafood is used to establish the pounds pollutant allowed for that site and that day. When the product offloaded, but processed at another site or on another day, the pounds of seafood offloaded or received are used to calculate the allowed pollutant load for the site where the discharge occurs. DEQ added additional definitions to the permit.

Comment Summary:

Tables A1 and A2 include requirements for offloading or receiving of raw product where the product is not immediately processed. The permit seems to specify that raw product, for the purpose of calculating

effluent limitations, should be accounted for on the date received. Commenter suggests that it would be more appropriate to account for raw material on the production date since effluent limits are directly related to production. (14)

DEQ Response:

DEQ recognizes that processors may move the seafood or process it on a different day. DEQ revised Table A1 and A2 to provide additional clarification.

3.8 Comments regarding the recreational sportfish cleaning station provisions

Comment Summary:

Commenter requested that the recreational sportfish cleaning station registration letter and the following language be added to the permit: “All sport fish cleaning stations need to send a letter to DEQ seeking approval for discharge of fish preparation residuals. If their residuals discharge is less than 500 pounds per day, the residual is cut into pieces of approximately one inch or smaller, and the discharge is not into a zone with limited circulation, then DEQ will send an approval letter. Otherwise, the facility will need to submit more information to both DEQ and ODFW seeking approval.” (10)

Comment Summary:

Commenter noted that the permit requires Recreational Sport fishing Cleaning Stations to register for coverage under the permit by completing the registration form, Appendix 1. Both the permit and registration form state that the cleaning stations must meet the following requirements:

- less than 500 pounds per day on average,
- cut into pieces of approximately one inch or smaller, and
- adequately dispersed into the receiving waterbody.

These conditions lack the necessary specificity to be enforceable conditions of the permit. It is not clear whether the mass threshold applies to raw product processed or an estimate of the mass discharged. There are also no recording keeping requirements under the permit. Aside from a note on the registration form stating that registrants “may be required to demonstrate permit compliance.” At a minimum, registrants should be required to record the date, location and amount discharged. We recommend that DEQ review these provisions in the permit to ensure that eligibility and reporting requirements are explicit. (14)

DEQ Response:

DEQ updated the permit to provide additional clarity.

3.9 Definition of “adequately dispersed into the receiving water body”

Comment Summary:

Commenters requested an explanation of what "adequately dispersed into the receiving body" entails, as required for Recreational Sportfish Cleaning Stations. (10), and (28)

DEQ Response:

DEQ updated the permit to provide additional clarity.

3.10 Definition of terms related to recreational sportfish cleaning stations

Comment Summary:

Commenter asked to clarify terms used regarding recreational sports fish cleaning stations: Less than 500 pounds per day on average; what's the average? Is it monthly, is it yearly, what is that? The definition of "approximately one inch" is subjective. "Adequately dispersed" is subjective.

DEQ Response:

DEQ added additional clarity to the permit.

3.11 Comments on cover page

Comment Summary:

The permit coverage page provides an EPA ID number of ORG523508. EPA ICIS database indicates the permit number is ORG520900. DEQ should confirm the correct permit number for the general permit and for permittees to be covered under the permit. DEQ permitting staff and ICIS-NPDES data coordinator must ensure the data collected through e-reporting is correctly coded and entered into the system for each authorized discharge. The verification of accurate data collection upon permit issuance will ensure DEQ can more accurately assess compliance during the term of the permit. (14)

DEQ Response:

DEQ made this change to the permit.

Comment Summary:

On Page 3, "Seafood Product" is defined as, "the weight of oyster meat after shucking or the weight of the scallop meat after processing. The term applies only to the production measurement for hand-shucked oysters and scallops." This definition conflicts with the use of the term on Page 5 where it is used generally in reference to all final products from seafood processing facilities. (12)

DEQ Response:

Most of the 40 CFR 408 Subparts (A-X, AB, AE, AF) give the measure of pollutant in pounds per thousand pounds of "seafood" and define seafood as the raw material as received at the plant. See the definition of "seafood". Oysters and scallops 40 CFR 408 Subparts (Y, Z, AA, AC and AD) give the measure of pollutant in pounds per thousand pounds of "product." DEQ revised the definition section of the permit for terms "product" and "seafood" in the permit for clarity.

Comment Summary:

On Page 5, the statement, "seafood preserving and canning facilities receive raw or frozen seafood from harvesting operations," describes the general intake of raw product. The use of, "preserving and canning," to describe all facilities is overly specific and exclusive of facilities that do not produce preserved or canned products. (12)

DEQ Response: DEQ revised the permit for additional clarity.

Comment Summary:

On Page 5, the proposed permit uses the term "receive" to describe a stage in the process at seafood facilities in general. This term is not explicitly defined in the permit, but it is acknowledged to generate wastewater. Will the permit consider wastewater contributions from "receiving" activities other than offloading from vessels, i.e. receiving from trucks? (12)

DEQ Response:

DEQ included the a definition for offloading in the permit.

Comment Summary:

On Page 5, in the table, "Summary of Processes Covered by the 900-J Permit", "Processing of Dungeness or Tanner Crab "is included. Does this include "Partial Crab"? (12)

DEQ Response:

The "Summary of Processes Covered by the 900-J Permit" table states "whole or in part." This means that discharges associated with partial crab production are covered under this permit. Crab has separate ELGs for Alaska for whole or sections. Neither of those apply in Oregon.

Comment Summary:

On Pages 8 through 11, "Table A 1 - Limits not to be exceeded for All NEW Sources" and "Table A2 - Limits not to be exceeded for All EXISTING Sources" define the date of differentiation between new and existing sources as "12/ 1/1975". However, crab, shrimp, and tuna processing facilities are differentiated as new or existing sources by the date "6/26/1974". (12)

DEQ Response:

Federal rules define Existing Sources as those who were in business or commenced construction and have not substantially changed since prior to the publication of New Source Performance Standards (for complete language see 40 CFR §122.29). For catfish, crab, shrimp, and tuna Processors that date is June 26, 1974. For fish meal, salmon, bottom fish, clam, oyster, sardine, scallop, herring and abalone Processors that date is December 1, 1975. All facilities newer than those dates are considered New Sources for those categories.

Comment Summary:

On Page 23, Schedule B.4. states: "The registrant must submit a written report to DEQ regarding results of the outfall inspection by no later than December 31 of the same year as inspection." Due to seasonal operations, related safety issues, and weather, a processor may not be able to get a diver out until late November or even December. Therefore, it may not be possible to submit reports by December 31 of the same year. A reporting deadline of March 1 of the year following the inspection would be more appropriate. Additionally, Table B4 on Page 24 lists the due dates for Outfall Inspection Reports as "6/30/2019 and 9/30/22." (1), and (12)

DEQ Response:

DEQ expects that the processor will be able to schedule the inspections in order to complete the report and provide it by December 31 of the reporting year. If circumstances exist that make this is not possible, despite planning in advance, please contact DEQ in writing.

Comment Summary:

On Page 26 of the Draft Permit, Schedule C.2. states “No later than 14 days following each milestone, the registrant must notify DEQ in writing of its compliance or noncompliance with the compliance schedule.” This implies permittees must notify DEQ that items required to be submitted to DEQ in Schedule C.1.c.i., Schedule C.1.c.ii., and Schedule C.1.c.v., have been submitted to DEQ. This is redundant and should be removed. (12)

DEQ Response:

DEQ removed the compliance schedule in the permit and instead added benchmarks and adaptive management approach for certain pollutants in the permit. As a result the reporting on the compliance schedule milestones is no longer required.

Comment Summary:

Permittees should be required to develop and have available an operation and maintenance manual for all wastewater treatment process equipment and maintain the necessary logs to document proper Operations & Maintenance.

The section “Screen Inspection and Treatment System Operation and Maintenance Protocols” requires permittees to submit a monthly report attached to the DMR. It would be helpful to provide a template for certification and include this in the reporting and monitoring schedule. (14)

DEQ Response:

DEQ believes the permit requirements are sufficient.

Comment Summary:

On Page 43, Appendix 2 of the Draft Permit states describes “Hagfish, live tank water” as “flow through with no pollutant discharge”. Terms such as “none”, “no”, and “zero” are problematic because they are subjective, not measurable. Additionally, “Hagfish, live tank water” is not listed as a covered process in the “Summary of Processes covered by the 900-J Permit” table on Page 5 and it is stated on Page 6 that “Storage of live seafood, through which seawater is recirculated, is exempt from the requirement of seafood processing permit coverage.” Please explain why “Hagfish, live tank water” is listed in Appendix 2. Additionally, “Hagfish, live tank water” could be misinterpreted as live tank water for Hagfish is covered by the permit, but not live tank water for other species. (12)

DEQ Response:

DEQ revised the permit and it no longer includes the species.

Comment Summary:

On Page 25 of the Draft Permit, Schedule C.1.c.i. requires the registrant to “submit a dilution study with initial engineering assessment of treatment upgrades sufficient to comply with the final water quality-based effluent limitation and minimum dilution an engineering design for outfall modifications, and an engineering design for treatment upgrades). For example, an engineering assessment for upgrades may not be required for facilities that have sufficient dilution. The Commenter requests that these requirements should be discussed separately.

DEQ Responses:

DEQ replaced the water quality-based effluents with benchmarks and revised the Schedule D of the permit to require a mixing zone study for all applicants.

3.12 Other general comments**Comment Summary:**

On Page 7, there is an application requirement of an “Excel spreadsheet of the last 3 years’ effluent data including flow data.” If a facility is installing a treatment system that will drastically change the effluent loading in the near future, how is using the last 3 years of effluent data relevant to our facility? (12)

DEQ Response:

The requirement for a spreadsheet with three years of operating data is so DEQ can evaluate the facility and document increases or decreases in production and effluent quality at the next 900-J permit renewal. Submittal of the data will clearly show the improvements made at a facility that has recently upgraded their treatment systems.

Comment Summary:

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.

The proposed permit framework creates outcomes that completely contravene such policies. Unlike many other industries, the effluent from seafood processing facilities does not contain toxic chemicals; it consists of waste material from the processing of food. The seafood processing industry nevertheless may be forced to operate under untenable permit limitations that fail to reflect the true characteristics of seafood processing wastewater and result in wastewater treatment systems that must be operated in a way that prevents the reuse of byproducts that otherwise would maximize socio-economic and environmental benefits. This is contrary to the goal of encouraging sustainability across all industries. (2), (12), and (31)

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 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.

Comment Summary:

I am not sure if it is the lead person at DEQ, the liberal governor, or some students faulty testing, but when there are more crab and fish caught under the docks near the seafood processors, it is indicative of them (sea creatures) being happy with (DEQ words) 'undesirable organic discharges'. (6) and (7)

DEQ Response:

NPDES permits to protect the beneficial uses of all waters of the state by regulating pollutant discharges from point sources. The conditions in the 900-J have been developed consistent with state and federal regulations to protect all beneficial uses of the receiving water body.

Comment Summary:

It may not be technically feasible to install a new wastewater treatment system at some facilities due to space limitations in heavily developed shoreline areas. (3), and (32).

DEQ Response:

Industry compliance with the 900-J permit may require processing and treatment technologies that have not been used at the processor before. Each facility will need explore options for complying with the permit requirements.

Comment Summary:

On Pages 61 and 62 of the Draft Fact Sheet, “Appendix A. Reasonable Potential Analysis for Ammonia and Chlorine in Freshwater” and “Appendix B. Reasonable Potential Analysis for Ammonia and Chlorine in Saltwater” present water quality criteria for ammonia and chlorine. How were these criteria derived? They do not appear to match the EPA references. From “Text Table 3” in the EPA Ammonia Criteria document, the value of 1.7 applies to a pH of 7.8, but the pH for the ZID, per this spreadsheet, is 7.6, and the criteria for a pH of 7.6 is 3.1, not 1.7. (12)

DEQ Response:

Ammonia and chlorine water quality-based limits were removed from the permit and replaced with benchmarks which were developed using a similar process.

4 Comments Regarding the Process for Developing the Draft Permit

4.1 Economic analyses not conducted for the 900-J permit renewal

Comment Summary:

DEQ received comments regarding the lack of an economic analysis for the effect of the 900-J permit on the registrants and communities.

Many of the commenters raised concerns about the federal Effluent Limitation Guidelines, which are rules passed by EPA in 1974. The development document for the federal ELGs has an economic analysis

that evaluates the cost of building treatment. The economic analysis covered both water quality and non-water quality aspects of the costs of both constructing treatment and daily operation of the facilities if they were constructed in 1973. One important aspect of the economic analysis is that it was determined using 1973 dollars. (2), (3), (4), (9), (12), (13), (15), (20), (26), (29), and (31).

DEQ Response:

The federal ELGs are national wastewater discharge standards that are developed by EPA on an industry-by-industry basis. These are technology-based regulations, and are intended to represent the greatest pollutant reductions that are economically achievable for an industry. The standards for direct dischargers are incorporated into NPDES permits issued by states and EPA regional offices. These are considered the baseline treatment standards for the industry nationwide. EPA is responsible for all aspects of these regulations including any economic analyses.

4.2 The 900-J permit developed in an “arbitrary and capricious” manner

Comment Summary:

DEQ received comments from four commenters outlining reasons that the permit was developed in an “arbitrary and capricious” manner. Criticism included: all seafood processors were not treated equally; questions about why specific permit parameters were selected; concern that regulatory standards are not applied consistently across all species; and concern the permit should promote full utilization of resources. Some industry experts believe that there are technical issues with the federal ELGs. They state that the ELGs should be redone with new information. (1), (3), (12), (16), (17), (18), and (32)

DEQ Response:

DEQ developed the draft permit and conditions based on technical review of data, review of relevant federal and state regulations, and following site visits to individual seafood processing operations. In addition, DEQ met regularly with interested parties to obtain facts and information about operations and discharges from processes. DEQ followed standard technical procedures for establishing the need for pollutant regulation, including analyzing available effluent data and available data on receiving waters. DEQ also followed administrative procedures prescribed by DEQ as well as Oregon’s Administrative Procedures Act.

After meeting with the seafood processors in Oregon, DEQ staff recognized that different processors have different discharges from both single and multiple species processing. The differences in the facilities (i.e., production levels and types of species processed) meant that the best path forward was to design the permit with tiers based on the amount of production and relative strength of the effluent. The use of tiers is intended to treat similar processors the same, but it does not treat all facilities exactly the same because they are not. DEQ’s goal was to provide a general permit that would cover most seafood processors in Oregon and provide individual facilities with the benefits of a general permit, which include lower costs for the permit registration, lower annual compliance fee, and consistent monitoring and reporting requirements, thereby establishing a “level playing field” for industry.

DEQ selected the parameters for the renewed 900-J based on the data from the applications and discharge monitoring reports from the current registrants. DEQ applied the federal ELGs for the relevant fish species currently processed in Oregon. These were added to the permit as technology-based effluent limits, and apply to all seafood processors based upon which processes are being used at the time. DEQ acknowledges that the ELGs applied in the permit haven’t been

updated since the rules were promulgated by EPA in 1974 but that does not prevent any state from using them and in fact they must be used to develop the technology based effluents limits. These ELGs are used by other states. These rules (located in 40 CFR Part 408) are in effect and are applied in this permit. At this time, neither EPA nor DEQ plans on updating or creating new ELGs.

EPA developed ELGs for industrial dischargers specifically to assure that regulatory standards are consistent across an industry. By using the ELGs in this permit and applying the same Water Quality Based Effluent Limits in this permit to all facilities in a given tier, DEQ is applying regulatory requirements consistently.

Comment Summary:

Commenters stated that the new sampling requirements and limits are too difficult to comply with given the lack of trained employees and the remote locations of the facilities.

DEQ Response:

DEQ understands that the location of some of the seafood plants and the days or time of day when processing occurs can make sample delivery to commercial laboratories a challenge. DEQ reduced some of the sampling requirements but sampling is still required. See permit for more details. DEQ replaced the limits with benchmarks to allow processors to collect accurate data on their operations.

4.3 A working industry group is needed to address processors' concerns with the 900-J permit

Comment Summary:

Several commenters mentioned that they would have liked an industry workgroup to work with DEQ and referenced the request from members of the Coastal Caucus of the Oregon State Legislature to form a workgroup. Commenters also felt that the interactions that the processors and industry representatives had with DEQ were unsatisfying and expressed concern that their feedback was ignored during the permit development process. Commenters also stated that the new standards applied in the permit didn't include any of their feedback. (1), (2), (3), (4), (12), (25), (26), (27), (29), and (31).

DEQ Response:

The process for the renewal of the 900-J began with a meeting of the Coastal Caucus and industry representatives, followed by visits by DEQ staff to all of the seafood processing facilities. Release of the first draft of the permit was followed by public informational meetings in Astoria, Newport, and Coos Bay. Four webinars were held with seafood industry members during permit development to share progress and solicit feedback. Once DEQ had a complete draft permit, it was shared with the industry and put on public notice so that all people and groups interested parties could review and comment on the permit.

DEQ addressed comments and questions from the industry after the informational meetings and at the follow-up webinars. All comments received during the public comment period and at the hearings will receive responses from DEQ.

4.4 Waste from dissolved air floatation treatment isn't usable for anything else

Comment Summary:

The DAF (Dissolved Air Flootation) treatment systems necessary to meet excessive ELGs eliminates 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 they biodegrade to produce methane, a greenhouse gas. Eliminating the nutritional and commercial value of such “waste” through chemical treatment forgoes significant socio-economic and environmental benefits. DAF systems cannot operate at sufficient efficiency to meet effluent limits without using polyacrylamide polymer flocculants that are not acceptable in re-use streams.

DEQ must take into consideration the non-water quality effects and the financial impact of DAF sludge disposal. Alternatives to DAF and DAF chemistry are being researched but will realistically require 5 years from bench top testing to commercialization. It is premature to issue a new seafood permit based on outdated model technologies on which the ELGs and TBELs are based. (1), (2), (3), (4), (12), (16), (17), and (18).

DEQ Response:

DEQ does not prescribe which treatment needs to be used to comply with permit limits so it may be possible to use different technologies to remove the fine particulates and have a resulting material that is recoverable for other uses. DEQ encourages facilities to evaluate available treatment technologies and apply those that best meet their needs.

4.5 DEQ failed to demonstrate environmental harm from seafood processor effluent

Comment Summary:

Commenters suggested that DEQ needed to demonstrate that effluent from seafood processors actually causes environmental harm. The commenters suggested several different reasons for this including: a lack of resources and expertise from EPA and DEQ about seafood processor waste; the claim that seafood waste contains no toxic materials; the technology based effluent limits set in the permit are out of date; and, no evidence that seafood wastewater is causing harm to the environment. (1), (2), (3), (6), (7), (12), (16), (17), (18), and (31).

DEQ Response:

The federal Clean Water Act requires an NPDES permit for the point source discharge of pollutants to waters of the U.S. Seafood processing operations discharge pollutants through a point source to waters of the U.S. and, as such, are required to have an NPDES permit for their discharge.

4.6 The permit was not developed using science-based approaches

Comment Summary:

Commenters stated that DEQ was obligated to provide effluent limits derived from a scientifically-based assessment of model technologies. The commenters also stated that the permit should promote full utilization of resources, understanding that limiting waste by increasing reuse and recovery serves both environmental and economic ends. Some commenters stated that the limitations of the permit were untenable and prevent the use of seafood byproducts. References were made to the effluent limitation

guidelines used in Alaska. Commenters stated that those regulations encouraged reuse of waste materials more than those developed for the west coast of the contiguous United States. (1), (3), (12), and (31)

DEQ Response:

The fact sheet and DEQ responses to comments document the process used to develop the technology based effluent limits and the replacement of the proposed water quality-based effluent limits with benchmarks. EPA developed the Seafood Effluent Limitation Guidelines through research and scientific process and were published in 1974 and 1975. The guidelines were revised by EPA July 30, 1976, July 9, 1986, and June 29, 1995. The ELG does assume certain technologies are available to treat the wastewater and technology does change over time. DEQ must use ELGs to create technology-based effluent limits; however, the means for meeting these limits is for the registrant to select and can include preventing seafood wastes from entering the wastewater stream.

4.7 Cumulative effects from all seafood processors not considered for the 900-J renewal

Comment Summary:

Commenters expressed concern that the 900-J permit does not consider cumulative effects of the discharges covered under it. The comments focused on BOD, TSS, and Oil and Grease. The comments stated that Total Maximum Daily Load documents need to be up-to-date and implemented in full. Commenters expressed concerns with DEQ's ability to update and implement all of the necessary TMDLs. If the cumulative effects are to be addressed through the TMDL process, the commenters ask that cumulative effects resulting from DEQ permitting actions are also evaluated in an ongoing manner as permits are approved, not solely through the establishment of TMDLs. (8), and (11).

DEQ Response:

Based on samples taken by DEQ and other organizations and individuals, DEQ produces lists of waters that are impaired by the presence of pollutants. This is done under the authority of section 303 of the Clean Water Act and is called the 303(d) list. When a waterway is listed as impaired, it may meet the conditions that require a Total Maximum Daily Load document to be created to control the pollutants causing the impairment. This document looks at all contributors of pollutants in the water way and is used by permit writing staff to implement the portion of the document that allocates some waste load to sources and describes the reductions that need to be made in the pollutant to have the waterway improve.

The 900-J is a general permit and as such, it was written to apply broadly, in water ways that are impaired and those that are not. The permit was revised to include a process to assess new applicants when the discharge is proposed to a 303(d) listed water body.

4.8 Questions regarding how the permit will be enforced

Comment Summary:

Commenters asked how the monitoring and reporting requirements will be enforced. The concern is that some of these requirements seem to provide ample opportunities for faulty or under-reporting of discharges. (8) and (11)

DEQ Response:

DEQ enforcement rules may be found in OAR 340-012. The NPDES permit program is based on self-reporting and DEQ also inspects of permittees and investigates complaints, which can result in DEQ enforcement.

4.9 Comments related to production data and technology based effluent limits

Comment Summary:

Commenters criticized how EPA developed the ELGs and argued that analysis was incorrect. A commenter requested information why the mass-based TBELs were based on long term production data and not daily production. This was stated as not in line with the directions found in the EPA's Permit Writer's Manual. (1), (2), and (12).

DEQ Response:

DEQ is responsible for applying the assigned Effluent Limitation Guidelines as listed in 40 CFR 408.

All of the Technology-Based Effluent Limits in the draft 900-J permit are in the current (2006 version) 900-J permit.

The method EPA uses to create the long-term average daily production is to take the highest average daily production from 5 years of production data and use the highest average daily production of the 5 years if it is within 20% of the average daily production of the 5 years. The average daily production, if in the same production units as the ELG, is multiplied by the ELG to yield mass based limit.

4.10 Application of a TBEL for whole in-shell oyster processing

Comment Summary:

Commenters noted the lack of a technology-based effluent limit (TBEL) included for in-shell oysters. Under 40 CFR § 408 subpart Y, the ELGs only apply to shucked oysters. The commenters requested a Best Professional Judgement TBEL for processing whole in-shell oysters (including drum-washing). One commenter had submitted data and a possible statistical method to DEQ for deriving a shucked weight from whole oysters (12), and (31).

DEQ Response:

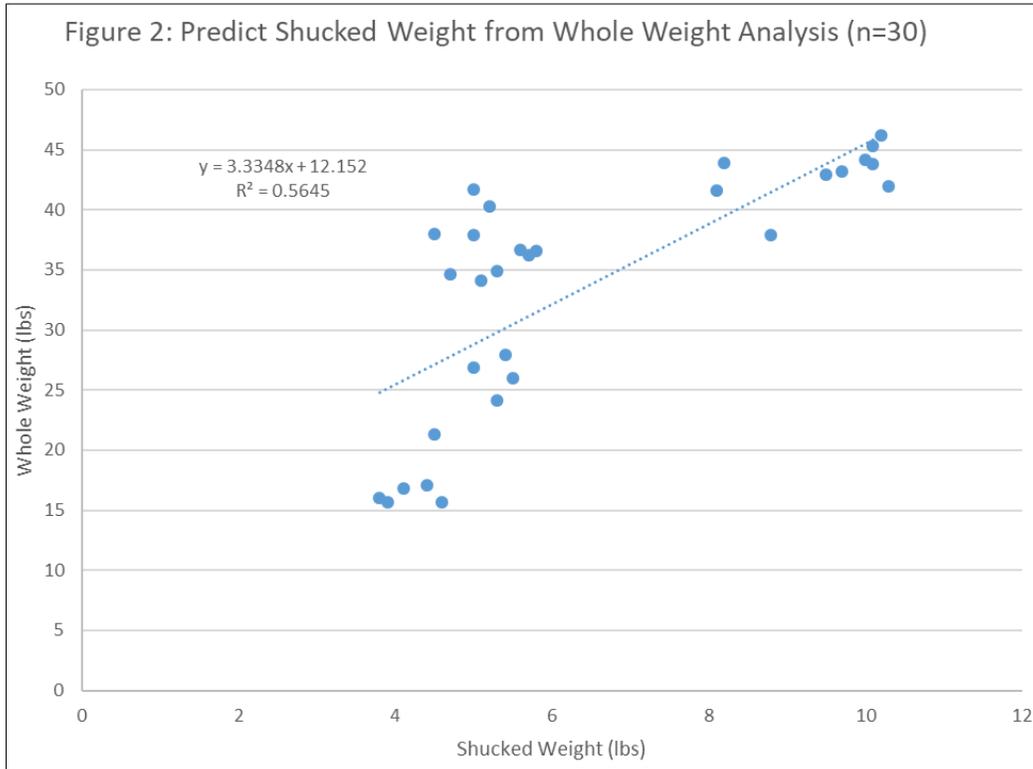
DEQ reviewed the weights of shucked and whole in-shell oysters from the commenter and the statistical analysis meant to demonstrate that the shucked weight of the oysters could be used to predict the whole in-shell weight of the same bushel of oysters via the relative percentage of each weight. DEQ staff reviewed the data and the analysis, and determined that it did not capture the variability of the data and failed to demonstrate that the shucked weight of an oyster can be used to predict the whole in-shell weight.

Therefore, DEQ staff attempted to answer the question by developing a regression model. Figure 1 depicts the result:



The model was only able to accurately explain 78% of the variation between the shucked and unshucked weight of oysters. DEQ concluded that other factors influenced the weight of the oysters. Also, the regression line was not crossing the X-axis near zero, and the large slope value indicates that the shucked weight cannot be used to accurately predict the whole in-shell weight of the oysters.

After the analysis was completed, DEQ requested more oyster weight data from the commenter to build another model that could be used to predict the unshucked oyster weight from the weight of shucked oysters. Figure 2 shows the result of that analysis:



The regression model developed using the larger dataset demonstrated that the variability of both oyster weight types was so high, that the whole oyster weight alone cannot be used to predict the shucked oyster weight. The model only could accurately predict 56% of the variability between the datasets. The slope and intercept of the line also indicates that the shucked weight cannot be predicted from the whole oyster weight. There are no changes to the fact sheet or permit based upon this comment.

DEQ will not apply a TBEL for hand and drum-washing whole in-shell oysters in the final version of the 900-J permit. This means that there will be no production-based limits for processing whole oysters and water quality-based effluent limits apply.

4.11 Comments on how the fishmeal ELGs are applied in this permit

Comment Summary:

Commenters questioned how and why the Fishmeal ELGs are applied in the 900-J permit. The comments questioned the use of oily species such as anchovies and menhaden in the development of the fishmeal ELGs and asks how facilities that make fish meal from non-oily species will be addressed. (11)

DEQ Response:

DEQ determined that EPA's fish meal ELG applies to fish meal from non-oily species.

Comment Summary:

Some of the technology based effluent limits are out of date and need to be revised. EPA and DEQ must abide by their own guidance in 5-14 Chapter 5: Technology-Based Effluent Limitations September 2010 NPDES Permit Writers' Manual:

For each possible treatment technology option for an industry, EPA conducts an analysis of industry-wide incremental compliance costs, pollutant loadings and removals, and related non-water quality effects. The Agency also performs an economic analysis to assess the financial impact on the industry of implementing each option. That entire process involves data collection, rigorous data review, engineering analysis, and public comment. EPA selects a technology to serve as the model technology for pollutant removal for each required level of control (i.e., BPT, BCT, BAT, NSPS, PSES, and PSNS). Limitations and other requirements in the effluent guidelines for each level of control are based on application of the model technology to the category or subcategory of facilities.

The ELG development documents evaluated Oregon Dungeness crab facilities in 1971 and 1972 with an average production rate of 7 tons/day. The Bandon Pacific 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. (1), and (12)

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 activities. If a processor does not believe the 900-J is appropriate for their discharge, it may apply for an individual permit.

Comment Summary:

What criteria is DEQ using to calculate the annual loads? Monitoring data is not available for all of the permutations and combination of daily mixes of species and production tonnage. (16), (17), and (18)

DEQ Response:

The criteria used to calculate the loads in this permit are based on the ELGs. Because limited monitoring data were provided, DEQ staff drafted the permit so the calculated load limits are meant to correspond to the amount of each process-type used by a facility over a given month.

4.12 Timing for complying with the technology-based effluent limits in the 900-J permit

Comment Summary:

On Page 11, “For any sources commencing facility construction after 1/1/2018, the effluent quality must comply with the limits on the day of permit assignment”. Separate startup and compliance periods will be necessary in order to meet the permit requirements, as compliance with the bacteria limits will require development of feasible treatment technologies for the industry as a whole.

Please clarify the milestones and timelines for complying with the ELGs/TBELs/WQBELs for facilities in operation before 1975, after 1975 but before 1/1/2018, and facilities built after 1/1/2018. (12), and (16)

DEQ Response:

It is a fundamental requirement in the Clean Water Act that new facilities must not impair water quality when they start-up. Anyone commencing construction after 1/1/2018 (or other date set in the permit) must build their facility in compliance with the permit requirements. This means that the TBELs apply on date of assignment for new facilities.

The ELGs set definitions for “new sources” and “existing source” based on the dates of the construction of the facilities. The TBELs for a new source will be different than the TBELs for an existing source. Catfish, crab, shrimp, and tuna processors in business before June 26, 1974 use the existing source limits in Table A2 in Schedule A. These same processors coming into business after June 26, 1974, use Table A1, New Source limits. All other species/process type processors in business before December 1, 1975 will use Table A2, and those in business after December 1, 1975, use Table A1.

DEQ is proposing a schedule for updating applications and applying for coverage that gives the processors some time to update and adapt technology that treat the wastewater to the TBELs if needed. The WQBELs are now benchmarks which allows the processors to monitor, report and then adapt processes and technology if the benchmark is exceeded.

4.13 The public notice period for the 900-J permit was too short

Comment Summary:

Commenters expressed concerns about DEQ's timeline for permit renewal and the public comment period. Some commenters expressed concern that the renewal and public comment period were too short (giving them just thirty days). (12), and (14)

DEQ Response:

DEQ NPDES permits are put on public notice to provide the public with an opportunity to review and comment on the permit. The minimum length of time for public comment is 35 days. In the case of this renewal of the 900-J, prior to public notice, meetings and webinars with the regulated community were held to gather input, followed by an applicant review period of 74 days in which facilities that would be covered by this renewed permit had an opportunity to review and comment on the permit. To facilitate public comment, DEQ held three public hearings along the coast to gather comment. The public comment period began February 12, 2018 and was to end on

April 13, 2018. DEQ approved a request to extend the public comment period to April 27, 2018. The public notice period was longer than required.

4.14 The time taken to renew the permit was too long

Commenters raised concern that the overall time to renew the permit was too long and risked harm to the aquatic life in Oregon's waters and by extension to tribal members. (8)

DEQ Response:

DEQ's overall delay in renewing the permit resulted from needing to prioritize other permit renewals. With this renewal, the permit meets current federal and state requirements for wastewater discharges from seafood processing operations.

4.15 The short time to renew the permit means the seafood industries' concerns were ignored

Comment Summary:

Commenters mentioned permit renewal timeframe makes them concerned that the permit will be "rubber stamped". Commenters also expressed concern that comments received from seafood processors were ignored during the meetings with the processors and applicant review period. (13), (20), and (31).

DEQ Response:

DEQ engaged with representatives from the seafood industries prior to and during the permit drafting process. There were several workgroup meetings where DEQ staff requested feedback from members of the seafood industry. The workgroup meetings were intended to increase transparency in the 900-J permit drafting process. The workgroup meetings allowed potential registrants for the 900-J permit to interact with DEQ staff more often than they would have otherwise. The workgroup meetings also allowed the members see how the draft permit was written and ask questions about that process at each step of the development process. These workgroup meetings occurred on August 2, 2017, September 19, 2017, October 16, 2017, and November 13, 2017. DEQ then submitted a draft for applicant review to the 900-J registrants from January 15, 2018 and January 29, 2018. All of the feedback and questions received during the workgroup meetings were addressed in the subsequent meetings or via follow-up emails to the group.

5 Schedule A

5.1 Comments regarding the mixing zone applied in the draft permit

Comment Summary:

Commenters had differing perspectives regarding the mixing zone in the draft 900-J permit. Some questioned what the phrase, "point of discharge" means. Other commenters asked how the mixing zones were developed using only the effluent flows and should be based on environmental impacts and not "arbitrary standards." Another commenter mentioned that the mixing zones should be developed for each

discharge separately. Another commenter recommended that the mixing zones should be applied using the appropriate technical analysis based upon the “critical worst case discharge conditions to avoid the lack of a technical basis and due process associated with allowing a standard mixing zone and presumed dilution...”(9), (11), (12), (14), (16), (17), and (18).

DEQ Response:

The 900-J permit is a general permit meaning that the conditions of the permit must be applicable to multiple facilities. Site-specific conditions, such as the amount of dilution with the discharge and receiving water, cannot be considered for each facility. Instead, DEQ set forth a minimum requirement that a facility must meet to qualify for the general permit. Facilities may submit application for an individual permit for a site-specific individual NPDES permit.

The permit was updated to clarify that the mixing zone begins at the end of the outfall diffuser if applicable.

5.2 Bacteria limits misapplied in the draft 900-J permit

Comment Summary:

Commenters stated that seafood processors are not human fecal sources as defined in OAR 340-041-0009(1), and (6). The commenters asked for more information on how the limits were derived for fecal coliforms and Enterococcus bacteria when no bacteria data were available from seafood processor effluent. Commenters also asked how bacteria limits normally applied to sewage treatment plants are applied to seafood processors. The commenters also discussed that it will be expensive and difficult for them to facilitate the resampling requirements of the permit because of the properties of the effluent and the remote locations of seafood processors on the Oregon coast. (1), (2), (3), (9), (12), (16), (17), (18), (24), and (31)

DEQ response:

Limited data from seafood processing indicates that bacteria can be found in the wastewater from these activities. OAR 340-041-0009(5) states: “Bacterial pollution or other conditions deleterious to waters used for domestic purposes, livestock watering, irrigation, bathing, or shellfish propagation, or otherwise injurious to public health may not be allowed.” DEQ is not able to determine if the source of bacterial contamination is from the seafood processed in the plant or another source. As a result, DEQ replaced bacteria limits in the 900-J permit with benchmarks. There are portable bacteria test options in the federal rules that are less expensive do not pose the sample logistical challenges as taking a sample to an analytical lab.

The application of DEQ’s bacteria standards is not limited to sewage treatment plants and animal waste facilities. The standards are applicable to all wastewater facilities that discharge to waters of the state and the benchmarks in the 900-J permit protect human health and other beneficial uses.

5.3 Quality assurance/quality control requirements for schedule A of the 900-J permit

Comment Summary:

There were comments regarding the Quality Assurance/Quality Control (QA/QC) requirements in the draft 900-J permit. Comments focused on the following situations:

On Page 13, in “Table A4 – Final Water Quality Based Effluent Limits” Note 2 states “upon a single sample exceeding the limit, the registrant may take at least 5 consecutive re-samples at 4 hour intervals beginning within 28 hours after the original sample was taken”. Because labs are not local to every processing operation and labs that do exist do not operate 24 hours a day, 7 days a week, it is not possible to:

- Receive analytical results within 28 hours of sample collection; and
- Collect the re-samples described in the Draft Permit and have them analyzed within hold times. A re-sampling period of 16 hours invariably results in samples being collected after a lab closes, but more than 8 hours prior to the laboratory reopening. (12), (16), (17), and (18).

DEQ Response:

DEQ replaced the limits with benchmarks. As a result, the resampling requirements discussed above are no longer in the permit.

5.4 Compliance with the chlorine limit in the 900-J permit

Comment Summary:

Commenters expressed confusion around the compliance point for the chlorine limit in the draft 900-J permit. Commenters were confused about why the chlorine limits in Table A4 ranged between 0.06 and 0.14 for freshwater, and between 0.04 and 0.09 for saltwater when note 1 in the same table states: “Compliance is demonstrated by results reported as less than 0.1.” Commenters mentioned that the chlorine from the public water supply has greater chlorine levels than allowed by this permit. Comments also questioned how chlorine could be accurately measured from seafood processor effluent given the properties of the effluent. (1), (2), (3), (12), (21), and (24)

DEQ Response:

Municipal drinking water is chlorinated by the provider to ensure that no harmful bacteria are present within the distribution system and at the taps of water users. The levels of 1 – 2 mg/l are not harmful to humans when consumed. NPDES permits are developed to protect both human health and other beneficial uses of the receiving water. WQ standards for beneficial uses can be more restrictive than human health criteria, DEQ must use the more stringent criteria. The water quality acute toxicity criteria for total chlorine is 0.013 mg/l.

DEQ recognizes that municipal water supplies used for processing can have high pH or Total Residual Chlorine in the incoming water. DEQ reviewed the proposal to consider removal credits for pH and chlorine due to the potential presence of these compounds in the incoming raw water. Moreover, since the residual chlorine present in the incoming raw water is likely consumed by the organics in the processing activities, DEQ concluded that the likelihood of the incoming water causing exceedances of the permit limits was very low. No provision were included for credits for

the incoming raw water. DEQ's concern regarding residual chlorine is with the disinfection activities performed on the processing equipment, such as during cleaning activities at the facility.

DEQ provided a memo to seafood processors in October 2017 that outlines how ammonia and chlorine is to be monitored from seafood processor effluent. DEQ replaced the permit limits with benchmarks to allow the industry to collect additional chlorine data using the approved method from DEQ.

5.5 Comments regarding the fisheries enhancement provisions in the permit

Comment Summary:

Commenters asked questions regarding DEQ's removal of the fisheries enhancement provisions in the draft 900-J permit. One commenter stated that ODFW really needs to have a scientific approach to whether they want to keep it or not. Commenters stated that the fisheries enhancement provisions were removed without any scientific substantiation to discontinue the program. Another commenter stated that since fish parts are placed in streams where chinook salmon and steelhead trout are reared, this activity must have value. (21), (31), and (32).

DEQ Response:

In the early 1990s, ODFW began evaluating the placement of seafood processing plant residuals on the floor of the ocean to provide habitat for crab and other species. In 1991, DEQ issued ODFW an NPDES permit, called the Fisheries Enhancement Permit, authorizing the placement of seafood plant residuals in ocean waters. In the mid-1990s, DEQ renewed the 900-J NPDES permit and at the request of ODFW, included the provisions of the Fisheries Enhancement Permit in the general permit. As part of the current renewal process for the 900-J permit, DEQ consulted with ODFW regarding the removal of the fisheries enhancement provisions of the 900-J permit. ODFW staff asserted that there were no real benefits to the fisheries enhancement provisions, and the carcasses dumped can contribute to water quality problems such as eutrophication from excess nutrients as well as attracting unwanted pinnipeds in Oregon's estuaries and bays. Therefore, ODFW recommended removal the fisheries enhancement provisions.

Note that the fisheries enhancement provision of the expired 900-J permit should not be confused with the permit DEQ issued to ODFW in 1997 for the placement of fish carcasses in upland streams for juvenile salmonid enhancement. The placing of fish carcasses in upland streams was not covered by the fisheries enhancement provisions of the expired 900-J permit. ODFW was issued a separate individual NPDES permit in the 1990s for the placement of fish carcasses in streams. That permit was terminated in 2002.

Comment Summary:

Regarding Schedule A, Table A-2, we recommend that you ratchet down the allowable discharges from "existing sources" - as these are significantly higher than "newer sources". If this is technology based, these should be low hanging fruit, meaning minor improvements may provide major marginal benefits. (11)

DEQ Response:

The definitions for "existing" and "new" sources for all NPDES permits are described in 40 CFR § 401.11: That regulation defines how a facility is determined to be either: "existing," and "new

source.” For example: “The term **new source** means any building, structure, facility or installation from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under section 306 of the Act which will be applicable to such source if such standard is thereafter promulgated in accordance with section 306 of the Act.” Since the regulations in 40 CFR § 408 were published in the federal register on June 26, 1974, that means any facility constructed afterwards is considered a new source for purposes of this permit. These regulations also define the ELGs that are to be employed as TBELs in NPDES permits. These are considered the lowest load levels based on a given treatment technology. Any changes or updates to the federal regulations are beyond the purview of Oregon DEQ. DEQ reviewed the facilities that qualify for the existing source ELGs and determined that these were appropriate when paired with water quality-based effluent limits.

6 Schedule B

6.1 Questions about collecting representative samples of the effluent

Comment Summary:

Commenters requested clarification regarding what it means to collect a representative sample of the effluent. The concern focused on how to accomplish that for multispecies processors when collecting samples for bacteria. The commenters also expressed concern that a certified operator will be needed to meet the sampling requirements of the permit given that they are similar to sewage treatment plants. (1), (2), (3), (16), (17), and (18).

DEQ Response:

DEQ clarified in the permit that the registrant must sample effluent in a manner that is representative of the wastewater discharge and directs the registrant to Schedule F, condition C1 for more information. Each species and its process type processed in a month must be sampled. In addition, if the calendar month ends during the week, any sample taken during this week may be used for the previous and following weekly and monthly monitoring and reporting requirements.

The Wastewater Operator Certification program in Oregon only applies to facilities that treat domestic sewage. There is no operator certification program for industrial wastewater facilities, and DEQ is currently not proposing that such a program be developed.

6.2 The use of significant figures in the draft 900-J permit

Comment Summary:

Commenter requested clarification regarding the number of significant digits for compliance data when submitting DMRs for the 900-J permit:

Page 16, Schedule B.1.f.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? (12)

DEQ Response:

In this example, after processing shrimp, a seafood processor collects a composite sample and calculates a BOD level of 154.9 lbs/1000-lb. After rounding to two significant digits, the value recorded is 160 lbs/1000-lb. This would exceed the daily maximum limit for shrimp of 155 lbs/1000-lb. Another example is if the composite sample results in a measured BOD level of 153 lbs/1000-lb. After rounding to two significant digits, the value recorded is 150 lbs/1000-lb.

6.3 The 900-J contains permit parameters extraneous to seafood**Comment Summary:**

Commenter mentioned that, unlike other industries, the byproducts associated with seafood processing continue to have nutritional and commercial value. Those 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, the 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, but not if the byproducts used to manufacture the meals are contaminated with wastewater treatment chemicals. (2), (12)

DEQ Response:

DEQ acknowledges that renewed 900-J may require new wastewater treatment systems that use additional chemicals to facilitate compliance with the permit but could make the byproducts less desirable for certain uses. DEQ is, however, required to ensure compliance with state water quality standards in NPDES permits.

Comment Summary:

Commenters asked for clarification regarding QA/QC monitoring requirements in the proposed permit:

On Page 15, Schedule B.1.d.i. Laboratory Quality Assurance and Quality Control requires the development and implementation of a written QA/QC program. Is there a development and implementation period or is this required as of the assignment date of the permit?

On Page 15, Schedule B.1.d.ii., states “If a sample does not meet QA/QC requirements, the registrant must include the result in the DMR along with a notation (data qualifier).”

On Page 15, Schedule B.1.d.ii., requires “the registrant re-sample” samples that “cannot be re-analyzed” for which “QA/QC requirements are not met for any analysis”.

How does a permittee manage the following typical scenario?

- It cannot be known that QA/QC requirements are not met until the reporting period has ended;
- The processing scenario (species combination, etc.) cannot be duplicated; or
- Other scenarios precluding collection of a duplicate sample.

The new monitoring requirement will create logistical challenges for DEQ and the permittees in light of QA/QC concerns. The commenter stated that about 10% of the data that we have reviewed from labs fails

to meet the QA/QC requirements. Add this to the new requirement for the larger plants to sample all operations twice per week per month, and that DEQ must approve the reporting of such failed samples, there will be significant logistical challenges for results to be attained in a timely manner. This is especially true for samples for which results are not released by the lab until the following month. DEQ should consider an alternative sampling schedule to accommodate these vendor factors that are typically beyond the control of the facility. (12), (16), (17), and (18).

DEQ Response:

A seafood processor will be required to comply with the QA/QC requirements upon DEQ approval of coverage under the 900-J permit. Registrants should be able to know when QA/QC requirements are not met soon after submitting samples to a laboratory. The registrant can communicate with the laboratory to obtain this information and does not have to wait until a report is produced by the laboratory. The registrant should also consider submitting duplicate samples and blanks to the laboratory as part of its OA/QC plan.

6.4 Comments regarding the multi-species monitoring requirements for Tier 1 registrants in the 900-J permit

Comment Summary:

Commenters expressed concern regarding the multi-species requirements for Tier 1 registrants in the permit. The comments focused on the variable and ephemeral nature of the fish supplied to the facilities. Comments included proposed different ways of calculating the technology based effluent limits for seafood processors that process different species within the same month. There were also comments that explained that the twice per week sampling requirement for Tier 1 facilities is an undue burden. Other commenters requested a new TBEL specifically for multispecies production. (1), (2), (3), (12), (16), (17), (18), and (31)

DEQ Response:

DEQ acknowledges the unique processing conditions that are faced by the seafood industry. DEQ decreased the monitoring requirements for Tier 1 registrants from 2/week to 1/week for BOD and bacteria samples. The requirements represent the minimum level of monitoring necessary to determine compliance with the variable nature of processing activities.

During the 900-J permit renewal process DEQ received a number of requests for DEQ to develop a TBEL specifically for multi-species processors. The process involved in the development of a TBEL is very resource intensive. DEQ would need to dedicate significant staff resources for such work and those resources are currently not available to complete this process in a timely manner. DEQ elected instead to develop the compliance calculator for both single species and multi-species processors.

6.5 Difficulties complying with the reporting requirements in the draft 900-J permit

Comment Summary:

Commenters requested clarification regarding what to report to DEQ when there is "No Processing" but there is flow. Commenters also expressed concern regarding how to comply with Note 1 of Table B2

regarding reporting temperature data when the continuous monitoring equipment fails. (12), (16), (17), and (18)

DEQ Response:

In months with no processing that have flows, registrants are required to report “No Processing” and the data from their applicable monitoring requirements. That is, monitoring of discharges are still required even when there is no processing as specified in the 900-J.

Note 1 in Table B2 is only for temperature monitoring. The purpose of Note 1 was to explain what will be acceptable temperature data if the continuous temperature equipment fails while the registrant is discharging effluent. DEQ added language to the note for further clarification.

Comment Summary:

When does the plant need to record/ report/sample under the following scenarios?

1. No seafood related activities and no discharge based on influent and/or effluent meters.
2. No seafood related activities but discharge based on influent and/or effluent meters.
3. Seafood related activities with no ELG/TBEL and discharge based on influent and/or effluent meters.
4. Seafood related activities with ELG/TBEL and discharge based on influent and/or effluent meters.

DEQ Response:

Monitoring and reporting must be completed during times where there is a discharge of process wastewater to surface water. Process wastewater includes water that is used during the processing of catch as well as water used in cleaning operations. Wash water used in the plant during periods where no processing occurs is considered process wastewater.

6.6 Comments regarding the compliance calculations in the permit

Comment Summary:

On Pages 17 through 19 of the Draft Permit, the equations presented and the accompanying explanations are unclear and utilize misleading notations. For example, on Page 18 “TBEL – sp” is used to denote the relevant TBEL for each species/process type, but this notation could easily be interpreted as a subtraction function. Please perform a comprehensive review of the calculation methodology and its presentation that considers use of the methodology by individuals not familiar with its development. (12)

DEQ Response:

DEQ revised the tables in the 900-J and clarified the compliance calculation methodology in Appendix 1 of the 900-J.

Comment Summary:

Page 16, Schedule B.1.f.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.” This is later amended on Page 24, “Alternative spreadsheets submitted in advance will be reviewed and approved only if they are mathematically the same and have a similar format with correctly labeled outputs.” For consistency

please add the amended statement to Schedule B.1.f.iii. Also, will this spreadsheet be made available via the DEQ website after permit issuance? (12)

DEQ Response:

DEQ removed the alternative spreadsheet language from the 900-J and substantially revised the calculator.

Comment Summary:

The approach required for calculating compliance with the seafood processing effluent guidelines (ELGs) is very complex in this permit. The methodology in this Permit directly applies the guidelines as limits and uses a disaggregated approach to check compliance against individual subcategories within 40 CFR Part 408.

In the Permit, Equations 1 through 3 of the calculation steps follow the aggregate approach described in the development document for the ELGs (see below), and then subsequent calculation steps disaggregate the averaged load for each pollutant by species and process type. The outcome of this approach provides for direct comparison of the calculated “production-normalized daily mass load” to the averaged mass loads in the ELGs for each subcategory.

The development document describes compliance with the ELGs by applying effluent limitation based on the aggregate approach: “When a plant is subject to effluent limitations covering more than one subcategory, the plant’s effluent limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory. For example, if a plant processes several species concurrently, then the plant’s effluent limitation may be the sum of the products of the volume of each species processed and the respective effluent limitation” (Page 322 of Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Catfish, Crab, Shrimp, and Tuna Segment of the Canned and Preserved Seafood Processing Point Source Category, June 1974).

The proposed approach creates multiple points of potential non-compliance because violations of the aggregate load limit for a single parameter are multiplied by the number of applicable subcategories for that day of sampling. The aggregate approach described by the ELGs would simplify compliance determinations or would more appropriately limit the number of violations that result from a noncompliance event. (2), (12), and (14)

DEQ Response:

DEQ revised the calculator to allow for an aggregate approach.

6.7 Concerns with the proposed temperature monitoring for the Tier 1 registrants

Comment Summary:

Commenters asked about the Tier 1 requirements for temperature monitoring. The commenters stated that this was an undue burden in practice and expensive to comply. Other commenters stated that it was unfair to require registrants to meet temperature requirements when the receiving water(s) that they already discharge to are already impaired for temperature. One commenter asked DEQ to further explain how the interim and final limits were derived. (2), (9), (12), (14), (16), (17), and (18).

DEQ Response: Tier 1 registrants are required to monitor temperature hourly because they have the largest quantities of discharge and have the greatest potential to impact receiving water bodies. If a water body is already listed as impaired for temperature, DEQ cannot allow a discharge to further contribute to the impairment. DEQ replaced the temperature limit with a benchmark to collect additional data and in recognition that discharges from seafood processing are not continuous throughout the year. Temperature data is needed, however, to confirm this assumption.

6.8 Questions regarding sampling methods required for compliance with the ammonia, chlorine, and mixing zone requirements of the proposed 900-J permit

Comment Summary:

Commenters request clarification regarding which test methods to use when collecting compliance samples for the 900-J permit. The commenters asked for clarity regarding: the sampling techniques for mixing zones, and the test methods for that should be used for seafood processors to measure bacteria, chlorine, and ammonia. (1), (2), (3), (11), and (12).

DEQ Response:

Test methods and sampling protocols are listed in 40 CFR 136 unless DEQ otherwise approved by DEQ. DEQ has provided a memo (dated October 17, 2017) to existing 900-J registrants with instructions on the specific methods listed in 40 CFR 136 to use for chlorine and ammonia. This memo is available on DEQ's website.

6.9 Questions regarding Sampling Methods Required for Compliance with the Bacteria Requirements of the Proposed 900-J Permit

Comment Summary:

Commenters asked for the guidance from DEQ that will clarify how bacteria results should be collected and analyzed. (2), (3), and (12).

DEQ Response:

When the 2006 900-J permit was issued, most bacteria test methods listed in 40 CFR 136 required colony-forming units to grow in petri dishes, which could be labor intensive. 40 CFR 136 was updated in 2011 and allows for easier methods. Samples should be collected after seafood processor effluent is treated and disinfected if disinfection occurs.

6.10 Timeframe for Submitting Monthly DMRs

Comment Summary:

Commenters requested clarification regarding when discharge monitoring reports were to be submitted:

- On Page 24 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? Is there a specific time on the calendar due date by which submissions must be made? (12)

- On Page 15, Schedule B.1.b.iii. 15 calendar days are allotted to submit DMRs from the end of a reporting period “or as specified in writing by DEQ”. Will accommodations be made in the event that circumstances beyond the facility’s control delay the availability of analytical results necessary to complete the DMRs? (12)
- On Page 24 of the Draft Permit, “Table B4: Reporting Requirements and Due Dates,” 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? (12)

DEQ Response:

DMRs are due by the 15th of the following month. If analytical results are not available in time, indicate as such on the DMR. DEQ is not yet requiring electronic reporting for the 900-J and DMRs must still be postmarked by the 15th of month. Contact your DEQ inspector whenever you have problems submitting your DMR.

6.11 Suggested corrections to the permit

Comment:

On Page 17, Schedule B.1.f.iv. is initially used on Page 16. This section should be relabeled Schedule B. 1.f.v. (12)

DEQ Response:

DEQ revised the permit and corrected numbering issues.

Comment:

On pages 17 and 19, in Equations 1, 2, and 8 the words "divided by" are present in the denominators of fractions. It appears that "divided by" is redundant to displaying the information as a fraction, and these words should be deleted. (12)

DEQ Response:

DEQ revised the 900-J to include calculation methods in Appendix 1 of the permit and clarify the compliance calculation methodology.

Comment:

On Pages 20 through 22, in “Table B1: Effluent Monitoring for Technology Based Parameters” and “Table B2: Effluent Monitoring for Water Quality Based Parameters” it is outlined that Tier 1 processors are to sample twice weekly year-round while processing. If processing only occurs a limited number of days (for example, 3 days) in a week on days sampling cannot occur due to lab availability, facilities will not be able to comply with this requirement. During the webinars, DEQ explained that a processor would only be required to collect two samples per week if processing occurred on all 7 days of the week, but this caveat is not included in the permit. (12)

DEQ Response:

Note DEQ revised the monitoring requirements. Processors have indicated to DEQ that their activities are sporadic and do not necessarily occur all seven days of the week. As a result, it was not feasible to provide for a monitoring schedule based on processing over seven days because DEQ would not be able to determine compliance with the 900-J limits and benchmarks.

7 Schedule C

7.1 Comments regarding the compliance schedule in the draft 900-J permit

Comment Summary:

Commenters asked for explanation about the high levels allowed during the compliance schedule. Commenters also stated that the seasonal nature of the seafood industry means that three years is not enough time to build the treatment to meet the final limits in the compliance schedule. (3), (11), (14), and (31).

DEQ Response:

DEQ replaced the water quality-based effluent limits with benchmarks. This allows the processors and DEQ to obtain more data on these parameters before limits are set. DEQ requires exceedances of benchmarks to be addressed through the review of current practices and the implementation of management plans so that each processor can make adaptations that work for their facility. The timeframes for management plans are described in the revised draft permit and fact sheet.

Comment:

On Page 26 of the Draft Permit, Schedule C.2. states: “No later than 14 days following each milestone, the registrant must notify DEQ in writing of its compliance or noncompliance with the compliance schedule.” This implies permittees must notify DEQ that items required to be submitted to DEQ in Schedule C.1.c.i., Schedule C.1.c.ii., and Schedule C.1.c.v., have been submitted to DEQ. Pacific Seafood believes this is redundant and should be removed.

DEQ Response:

DEQ removed the compliance schedule from the permit.

8 Schedule D

8.1 Proposed edits to Schedule D

Comment:

The requirements for stormwater are unclear and not enforceable as applied in the permit. See Schedule D.4 language where permittees must minimize exposure “to the extent technologically available and economically practicable and achievable in light of best industry practice.” The permit should state that a spill plan must be on site and available to inspection staff upon request. (14)

DEQ Response:

DEQ clarified the requirements for commingled stormwater in the permit.

Comment:

On Page 28, Schedule D.7.c. states “The registrant must document the finding[s] of the inspection in a screen inspection and treatment system operation and maintenance report, which is reported monthly to DEQ as an attachment to the DMR.” Schedule D.7.d goes on to state the requirements of the report, which includes “list of any solutions used to disinfect and clean the screens” and “list of any repairs or maintenance to damaged screens”. This language should be modified to be less specific to screens and instead refer to a, “treatment system operation and maintenance (which would include screen inspections among other operation and maintenance activities).” Are repairs and maintenance conducted on screens during months of no processing also required to be reported? (12)

DEQ Response:

DEQ clarified inspection requirements for wastewater and stormwater collection and treatment systems, including screens, in the 900-J.

Comment:

On Page 28 of the Draft Permit, Schedule D.6. calls for the need of a Spill Prevention and Response Plan. SPCC Plans are not required for every facility. Pacific Seafood requests this be removed as SPCC Plans are covered by other regulatory programs. (12)

DEQ Response:

The Spill Prevention and Response Plan requirement in the draft 900-J permit is not the same as an SPCC. Registrants can use the SPCC to meet this requirement.

Comment:

Remove “that may cause an adverse impact to the environment or public health.” Permittees must report all non-compliance with conditions of the permit. (14)

DEQ Response:

DEQ revised the permit to refer the registrant to existing general conditions related to reporting in Schedule F. The phrase referred to in this comment cannot be removed because it is required language in all NPDES permits pursuant to 40 CFR 122.41.

Comment:

"Waste solids and wastewater solids" should read "Waste solids and recovered wastewater solids." (16), (17), and (18)

DEQ Response:

DEQ changed this phrase to “Treatment System Residuals” in the 900-J.