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House Committee On Climate, Energy, and Environment

Informational Meeting – Water Quality Permitting for Seafood Processor Facilities

Testimony of Lori Steele, Executive Director of West Coast Seafood Processors Association

Thank you very much for taking time to hear our concerns and address this very important issue.

WCSPA represents the majority of 24 seafood processing facilities in Oregon that are struggling to find a viable path forward under DEQ's new (900J) wastewater permit regime – and I can attest that the current situation is dire. Many of our facilities are facing the threat of closure because of infeasible and unworkable permit conditions.

I am testifying today on behalf of Oregon's seafood processors to ask for your help in directing DEQ to use the tools and discretion available to the Agency to: (1) create permit conditions that are appropriate for seafood processing operations in Oregon; and (2) issue permits that are technically feasible and achievable.

DEQ's new permit regime is the unfortunate and frustrating outcome of many years of effort and engagement by our industry and our coastal legislators to work to develop permit conditions that will protect the environment and public health without imposing unnecessary and substantial economic harm to Oregon's coastal communities.

Currently, the new permits are exceedingly complicated, overly restrictive, and they are not tailored to our processing operations or the very limited environmental impacts associated with our industry. The permit also disincentivizes recycling and encourages less than 100% utilization of fisheries resources, which is completely contrary to our industry's values, as well as DEQ's own long-term efforts to promote reuse and recycling.

There are a number of major problems associated with the new permit – most of which DEQ has the discretion and authority to resolve – but the Agency has chosen not to.

The permit limits are unsupportable by the best available science, inapplicable to our multi-species processing operations, and are not based on current production for facilities in Oregon. It is clear that DEQ did not account for the unique nature, diversity, and seasonality of the seafood industry when it developed the new permit limits, as it is mandated to do under the Clean Water Act.

For example, instead of using discretion to develop technology-based limits supported by data for our own operations, DEQ persists in choosing to base the limits on completely outdated and inappropriate Federal effluent limit guidelines. We have told DEQ numerous times that the Agency simply cannot continue to to “jam a square peg into a round hole” with respect to setting discharge limits for seafood processors. Limits must be set in a technically-defensible manner based on how our industry currently operates, and they must account for the seasonality and variability associated with fishing and seafood processing.

Over the last several years, the level of engagement on this issue by Oregon’s Coastal Caucus should send a strong signal to this Committee that there are very serious problems with the seafood processing permits being issued by DEQ. In 2019, for example, the Coastal Caucus submitted a letter to DEQ expressing a number of concerns and urging DEQ to make specific changes to the permit before finalizing it. The Coastal Caucus even stated that it believed the Agency was misinterpreting Oregon Administrative Rules with respect to the application of the bacterial limits in the permit and strongly urged DEQ to allow for a mixing zone when setting the bacterial limits. Ultimately, DEQ did not change the permit requirements, did not consult with the industry, and instead added more unworkable limits to the permits.

Not allowing a mixing zone for bacteria limits is inconsistent with regulations for seafood processing facilities in neighboring states like Washington and puts Oregon’s processors at a significant economic disadvantage to nearby facilities operating in the same manner.

Along the south side of the mouth of the Columbia River, Oregon’s seafood processing facilities will face significant challenges and incur prohibitive costs trying to meet bacteria requirements while conducting the same operations and discharging the same kind of wastewater into the same body of water as their competitors in Washington operating along the north side of the Columbia River. The economic impacts produced by this regulatory disparity are unnecessary and avoidable.

DEQ has now begun to develop Individual Permits for some seafood processing facilities and is suddenly imposing restrictive limits on metals like copper, mercury, and nickel, among others. These limits were never proposed or vetted publicly during the permit renewal process. They have taken the industry completely by surprise, and they present major problems.

Seafood processors do not add, use, or manufacture metals in their operations. The limits being imposed by DEQ for many of the metals are much lower than the levels allowed in drinking water by the EPA. No other state – nor any other country in the world – has applied requirements for metals like these to seafood processors.

And to be very clear –There is no viable technology available for seafood processors to reduce or eliminate metals from their wastewater. This is not a matter of cost or resources. The technology simply doesn’t exist to comply.

DEQ must work collaboratively with us to resolve the significant problems identified by our industry and our technical experts, especially requirements for which compliance is not feasible. Our companies have repeatedly identified specific technical and operational problems with the permit requirements and have formally communicated their concerns to DEQ a number of times; These problems must be resolved by DEQ in order for our industry to survive in Oregon. As we have suggested many times in the past, convening an Industry Advisory Panel to work with DEQ would be an effective way to address these issues.

Commercial fishing and the seafood processing industry on the West Coast are substantial contributors to overall U.S. seafood production and essential components of our coastal economies. A quarter of all American seafood processing and wholesale jobs are located on the West Coast, presenting the largest employment opportunity among all seafood producing regions in the country. Commercial fishing and the seafood processing industry are integral pieces of Oregon's economy, specifically in our rural coastal communities. In 2019 and 2020, for example, Astoria and Newport Oregon were among the top ten ports for pounds of fish landed in the United States.

Seafood-related infrastructure along the West Coast is inherently connected and interdependent. Losing any of our seafood processing facilities in Oregon because of DEQ's unfair and unnecessary permit requirements will significantly impact the entire industry, affecting tens of thousands of jobs related to fishing and seafood production along the West Coast.

Our industry prides itself on sustainability. We are stewards of the marine ecosystem, and our companies take environmental responsibility very seriously. We are willing to do our part – And we implore you to ensure that DEQ does its part to find a viable path forward for our industry. We ask you to please direct DEQ to use the tools available to the Agency and work with our industry and our technical experts to develop permit conditions that are scientifically-defensible, environmentally responsible, technically feasible, and appropriate for seafood processing operations in Oregon. This will allow us to continue to support a sustainable environment with healthy communities and vibrant coastal economies.