



Public Comment – HB 3814 (Oregon)

Headquartered in Astoria, Oregon with two seafood processing plants, Bornstein Seafoods is a family owned business with over 250 employees that has been processing West Coast Seafood for nearly 100 years. Dealing with onerous requirements put on our company by the Department of Environmental Quality over the last decade has been the single largest challenge our company has faced since our inception in the Great Depression.

To start, seafood processors are not looking for an exemption to our bacteria limits in our wastewater permits. We support the amendment to this bill that will allow for a mixing zone for bacteria limits. This is an issue we have fully investigated and vetted with DEQ. This is not a matter of deregulation. We worked in close communication with DEQ on the amendment language, and we are confident this amendment will address one of our most significant technical challenges while continuing to protect the environment and public health.

Over the last year and a half, we worked long and hard with DEQ to investigate a number of complex and longstanding technical challenges related to wastewater permitting. Through this collaborative process, one issue – the current inability of DEQ to provide an MZ for limits on bacteria (*E. coli* and *enterococcus*) – rose to the top as one of the most significant challenges – and one that requires attention from the OR legislature to resolve.

As currently interpreted by DEQ, OAR 340-041-0009 does not allow for mixing zones for our bacteria limits. That is because the limits were developed based on protection of public health from exposure to human fecal sources. The rule currently does not differentiate between human and non-human fecal sources. Simply put, seafood processing is not a human fecal source of bacteria. We are asking for a clarification to the rule to reflect this fact, and we have plenty of science to support it.

By not differentiating between human and non-human fecal sources of bacteria, the rule implies a false equivalency of risk between bacteria originating from human sources and non-human sources. Scientific research conducted over the last 20 years has demonstrated significantly lower risk – 100 to 10,000 times lower – associated with bacteria of non-human origin. This has been recognized by the Environmental Protection Agency. This scientific understanding has led the EPA to release new guidance and propose a methodology to develop alternative recreational water quality criteria for waters impacted by non-human origin fecal indicator bacteria (See Developing Alternative Recreational Criteria for Waters Contaminated

by Predominantly Non-Human Fecal Sources, EPA July 2024). Similar consideration should be applied to effluents containing indicator bacteria of non-human origin by specifying that OAR 340-041-0009(6) applies to “human fecal sources,” thus allowing for mixing zones for non-human sources, including seafood processing facilities.

This amendment will allow DEQ to apply a mixing zone to our bacteria limits so that we at least stand a chance of being able to meet the limits with implementation of the best available technology. Make no mistake about it - Without a mixing zone and without the availability of treatment technology to meet human fecal source standards, the seafood processing industry will not be able to meet permit requirements and will be forced to discontinue processing operations in Oregon.

This is not a new issue to come before the legislature. Members of the Oregon legislature have submitted comments to DEQ regarding this issue a number of times over the last several years. In May 2019, Oregon’s Coastal Caucus submitted written comments to DEQ, stating that they believe DEQ is misinterpreting OAR 340-041-0009 with respect to the application of bacteria limits to seafood processing facilities. In their comments, the legislators advocated for a mixing zone and said the challenges related to the seafood processor permits’ bacteria limits could cause negative impacts on jobs and economies in their districts, and the loss of seafood processor would have negative ripple effects in coastal areas. The Coastal Caucus just recently reiterated these comments to DEQ in a comment letter to DEQ late last year (Triennial Review Workplan comments, December 2024).

Our family has been processing Seafood for nearly 100 years, and we’d like to be a part of Oregon’s future for the next 100 years. Please consider this needed amendment that will allow DEQ to grant mixing zones for our bacteria limits.

Sincerely,

Andrew Bornstein