

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF DECEMBER 4-5, 2008

Prepared on November 7, 2008

ITEM NUMBER: 24

SUBJECT: General National Pollutant Discharge Elimination System (NPDES) Permit No. CAG993003 For Discharges From Aquaculture Facilities and Aquariums, Order No. R3-2008-0059

KEY INFORMATION

Location: Locations throughout the Central Coast Region
Type of Facilities: Facilities that contain, grow, hold, or study aquatic animals or plants
Type of Waste: Flow-through water
This Action: Adopt Waste Discharge Requirements

SUMMARY

This action will reissue the region-wide NPDES General Permit covering aquaculture facilities and aquariums. By reissuing this permit, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) enables staff to provide consistent regulation and reduce the amount of staff time spent issuing individual NPDES permits. This benefits water quality by minimizing Central Coast Water Board resources spent on low threat discharges, thereby allowing better resource allocation toward priority water quality threats.

DISCUSSION

The purpose of this General Permit is to regulate discharges from aquaculture facilities and aquariums in compliance with the Clean Water Act and the Porter-Cologne Water Quality Control Act and to facilitate permitting of discharges that the Water Board determines pose a low water-quality threat, in a timely and cost effective manner.

To obtain authorization under the General Permit for continued and future discharges to waters of the United States, dischargers in categories covered by the General Permit must submit a Notice of Intent (NOI) as provided in 40 Code of Federal Regulations (CFR) Part 122.28. After the effective date of the General Permit (December 5, 2008), all dischargers in categories covered under the General Permit must file either an NOI or an application for an individual NPDES permit. Unmodified existing discharges that are covered under the existing General Permit do not need to file a new NOI.

Discharging pollutants to surface waters without an NPDES permit is illegal, whether or not a discharge is eligible for coverage under the General Permit. Facilities that discharge pollutants and do not obtain coverage under this or another general NPDES permit, or under an individual NPDES permit, are in violation of the federal Clean Water Act (CWA) and the Porter-Cologne

Water Quality Control Act. To date, five dischargers have been authorized to discharge wastewater under the General Permit and are still actively enrolled.

Permit Limitations

Effluent, receiving water, and groundwater limitations proposed in the General Permit protect the beneficial uses of receiving surface waters, and groundwater. The limitations are specified in the Basin Plan and the California Ocean Plan.

Criteria for Enrollment under this General Permit

The General Permit is intended to authorize and regulate similar discharges from aquaculture facilities and aquariums – facilities that contain, grow, hold, or study aquatic species, to ocean waters of the Central Coast Region. Examples of eligible discharges include those from abalone growing facilities, steelhead trout rearing facilities, salmon rearing facilities, marine mammal laboratories, and aquariums. Suitability for coverage under the General Permit is determined on a case-by-case basis by Regional Water Board staff; coverage is allowed if the discharge meets the terms and conditions of the permit.

The General Permit expires on December 5, 2013. Those permittees authorized to discharge under the General Permit at the time of expiration will automatically be re-enrolled under the reissued General Permit, unless a Notice of Termination or Transfer is submitted to terminate coverage.

The following discharges shall not be considered eligible for coverage.

1. Discharges that contain constituents for which the receiving water is listed as 303 (d) impaired.
2. Discharges that can reasonably be expected to contribute to a violation of an applicable State water quality standard.
3. Dischargers to inland surface waters, enclosed bays, estuaries, and groundwater.
4. Discharges that are entirely, or in part, of domestic origin.

The following enrollment criteria language was added to the General Permit based on written comments submitted by the Otter Project during the public comment period. The language was included in the previous version of the General Permit, but was inadvertently left out of the draft permit. Water Board staff is recommending the following language be included in the General Permit, which has been modified from the draft version.

To be covered by the General Permit, discharges must meet the following definition of an aquaculture facility.

Aquaculture Definition – Aquaculture means a hatchery, farm, aquarium, or other facility that contains, grows, holds, or studies aquatic animals or plants, that:

- a. Discharges at least 30 days per year and;

- b. Produces greater than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year and feeds greater than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding;
- c. **Or** any similar facility that the Executive Officer determines may be a significant contributor of pollution to the waters of the State (reference: Title 40 CFR §122.24).

CHANGES TO GENERAL PERMIT REQUIREMENTS

There are minor changes proposed to the previous General Permit (Order No. R3-2002-0076). Since the previous version of the permit was adopted the state moved to a standardized format for NPDES Permits. Water Board staff drafted the revised General Permit (Order No. R3-2008-0059) in the standardized format.

The General Permit no longer regulates discharges to inland surface waters. There are currently no aquaculture facilities in Central Coast Region that discharge to inland surface waters. If an aquaculture facility proposes to discharge to inland surface waters, Water Board staff will draft an individual permit for the facility that incorporates procedures established in the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California*.

The proposed General Permit contains more specific descriptions of the information required to be included in facility best management practices plans. The best management practices and pollution prevention requirements incorporate the previous permit requirements and the Effluent Limitations Guidelines for the Concentrated Aquatic Animal Production Point Source Category found in 40 CFR Part 451.

The proposed General Permit contains more specific requirements for reporting the use of investigational new animal drugs (INAD) or any extralabel drug use where the use could lead to a discharge to surface waters. The proposed General Permit requires dischargers to provide an oral report no later than seven days after initiating use of an INAD or extralabel drug (report must identify the drug used, method of application, and reason for using that drug). The current permit does not specifically require oral notification for INAD and only requires written notification.

The proposed General Permit requires those facilities discharging into the Monterey Bay National Marine Estuary to submit monitoring reports and to provide INAD notification to Monterey Bay National Marine Estuary staff.

RESPONSE TO WRITTEN COMMENTS

The Otter Project submitted written comments on September 29, 2008. Those comments and staff's response to those comments are included in the General Permit Fact Sheet – Attachment F.

RECOMMENDATION

Adopt Waste Discharge Requirements R3-2008-0059 as proposed.