



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9947-89-Region 10]

Reissuance of NPDES General Permit for Discharges from Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of Washington State (Permit Number WAG130000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of Washington State (General Permit). The General Permit contains effluent limitations, along with administrative reporting and monitoring requirements, as well as standard conditions, prohibitions, and management practices. The Washington Department of Ecology and applicable tribes have provided Section 401 certification for this permit.

DATES: The issuance date of this General Permit is the date of publication of this notice. The General Permit will become effective August 1, 2016.

ADDRESSES: Copies of the General Permit and Response to Comments are available through written requests submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW-191, Seattle, WA 98101. Electronic requests may be sent to: washington.audrey@epa.gov. For requests by phone, call Audrey Washington at (206) 553-0523. The General Permit, Fact Sheet, Biological Evaluation, and Response to

Comments may be found on the Region 10 website at

<http://yosemite.epa.gov/r10/water.nsf/npdes+permits/general+npdes+permits/>.

FOR FURTHER INFORMATION CONTACT: Audrey Washington, (206) 553-0523.

SUPPLEMENTARY INFORMATION:

Other Legal Requirements

Endangered Species Act [16 U.S.C. 1531 et al.]. Section 7 of the Endangered Species Act (ESA) requires Federal agencies to consult with NOAA Fisheries (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. EPA has analyzed the discharges authorized by the General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit is not likely to adversely affect any threatened or endangered species in the vicinity of the discharge. NMFS and USFWS have concurred with this determination.

National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et.seq.] and Other Federal Requirements. Regulations at 40 CFR 122.49 list the federal laws that may apply to the issuance of permits, i.e., ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts, and development and analysis of measures to mitigate adverse impacts. EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EIS's) are

required under NEPA. EPA determined that continued coverage of the Chief Joseph Fish Hatchery under the reissued General Permit meets the criteria to be categorically excluded from further NEPA review. EPA also determined that CZARA does not apply. Essential Fish Habitat (EFH). The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA-NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as “any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g. contamination or physical disruption), indirect (e.g. loss of prey, reduction in species’ fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.” NMFS may recommend measures for attachment to the federal action to protect EFH; however, such recommendations are advisory, and not prescriptive in nature. EPA has evaluated the General Permit and has made the determination that issuance of the General Permit is not likely to adversely affect EFH. NMFS has concurred with this determination.

Executive Order 12866: The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Economic Impact [Executive Order 12291]: The EPA has reviewed the effect of Executive Order 12291 on this General Permit and has determined that it is not a major rule pursuant to that Order.

Paperwork Reduction Act [44 U.S.C. 3501 et seq.] The EPA has reviewed the requirements imposed on regulated facilities in the General Permit and finds them

consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act [5 U.S.C.601 et seq.] The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. 553] that have a significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires Federal agencies to assess the effects of their regulatory actions (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to the requirements of the APA, and are, therefore, not subject to the UMRA.

Appeal of Permit: Any interested person may appeal the General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the General Permit in court or apply for an individual NPDES permit.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342.

Dated: June 9, 2016.

Daniel D. Opalski,
Director, Office of Water and Watersheds,

Region 10.

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