



**ENVIRONMENTAL PROTECTION AGENCY**

6560-50-P

**FRL-10009-35-Region 1**

**Notice of Availability of Draft NPDES Aquaculture General Permit (AQUAGP) for Concentrated Aquatic Animal Production (CAAP) Facilities and Other Related Facilities in Massachusetts, New Hampshire, and Vermont**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability of Draft NPDES General Permit MAG130000, NHG130000, and VTG130000.

**SUMMARY:** The Director of the Water Division, U.S. Environmental Protection Agency – Region 1 (EPA), is providing a Notice of Availability for the Draft National Pollutant Discharge Elimination System (NPDES) Aquaculture General Permit (AQUAGP) for discharges from Concentrated Aquatic Animal Production (CAAP) facilities and other related facilities to certain waters of the Commonwealth of Massachusetts, State of New Hampshire, and State of Vermont (federal facilities only). This Draft NPDES AQUAGP (“Draft General Permit”) establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 14 eligible industrial facilities currently covered by individual NPDES permits, 7 in Massachusetts, 5 in New Hampshire, and 2 in Vermont. The Draft General Permit is available on EPA Region 1’s website at <https://www.epa.gov/npdes-permits/region-1-draft-aquaculture-general-permit>. The Fact Sheet for the Draft General Permit sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the Draft General Permit and is also available at this website.

**DATES:** Public comments must be received by [INSERT DATE 30 DAYS AFTER DATE

**OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** Written comments on the Draft General Permit may be mailed to U.S. EPA Region 1, Water Division, Attn: Nathan Chien, 5 Post Office Square, Suite 100, Mail Code 06-1, Boston, Massachusetts 02109-3912, or sent via email to: Chien.Nathan@epa.gov. No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the Draft General Permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays from Nathan Chien, U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Mail Code 06-1, Boston, MA 02109-3912; telephone: 617-918-1649; email: Chien.Nathan@epa.gov. The Draft General Permit is based on an administrative record available for review at U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912. A reasonable fee may be charged for copying requests.

**SUPPLEMENTARY INFORMATION:**

*Public Comment Information:* Interested persons may submit written comments on the Draft General Permit to EPA Region 1 at the address listed above. In reaching a final decision on this Draft General Permit, the Regional Administrator will respond to all significant comments and make responses available to the public at EPA's Boston office. All comments must be postmarked or delivered by the close of the public comment period.

*General Information:* The Draft General Permit includes effluent limitations and requirements for CAAP facilities and related dischargers based on technology and/or water quality considerations of the unique discharges from these facilities. The effluent limits established in the Draft General Permit ensure that the surface water quality standards of the receiving water(s) will be attained and/or maintained.

**Obtaining Authorization:** To obtain coverage under the Draft General Permit, facilities meeting the eligibility requirements outlined in Part 4 of this General Permit may submit a notice of intent (NOI) in accordance with 40 CFR § 122.28(b)(2)(i) & (ii). The contents of the NOI shall include at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, the receiving stream(s) and be signed by the operator in accordance with the signatory requirements of 40 CFR § 122.22. Alternately, based on 40 CFR § 122.28(b)(2)(vi), the Director may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. EPA has determined that the 14 facilities identified in Part 1 of the Fact Sheet all meet the eligibility requirements for coverage under the Draft General Permit and may be authorized to discharge under the General Permit by this type of notification.

**Other Legal Requirements:** In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from sites seeking coverage under the Draft General Permit. Concurrently with the public notice of the Draft General Permit, EPA has submitted a letter to the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats as a result of EPA's issuance of the Draft General Permit. In this document, EPA has preliminarily concluded that the proposed issuance of the Draft General Permit is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, or designated critical habitat for Atlantic sturgeon, as well as coastal protected whales and sea turtles and the North Atlantic right whale critical habitat. EPA has requested that NOAA Fisheries review this submittal and inform EPA whether it concurs with this

preliminary finding.

In the Fact Sheet accompanying the Draft AQUAGP, EPA has preliminarily concluded that the Draft AQUAGP will have “no effect” on endangered species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). The reason for this determination is because each NOI submission must assess site specific endangered species impacts using USFWS' Information, Planning, and Conservation (IPaC) website, available at <https://ecos.fws.gov/ipac/>. By using this website, the applicant can either make a determination of impacts or if there are questions, seek input from the USFWS directly. Since each NOI is individually screened prior to submission, EPA has tentatively determined that the Draft AQUAGP will have "no effect." EPA requests that USFWS review this submittal and inform EPA whether it concurs with this preliminary finding.

Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq. (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes “may adversely impact any essential fish habitat” (EFH). 16 U.S.C. § 1855(b). In the Fact Sheet accompanying the Draft AQUAGP, EPA notes that the general permit action minimizes adverse effects to aquatic organisms, including those with designated EFH in the receiving waters, including Atlantic salmon and the life stages of a number of coastal EFH designated species. EPA has made the determination that additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act and has provided this determination to NOAA Fisheries for their review.

**National Historic Preservation Act (NHPA):** Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not

authorized to discharge under the Draft General Permit. Based on the nature and location of the discharges, EPA has determined that the 14 facilities eligible for authorization under the Draft General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

**Authority:** This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 4, 2020.

Dennis Deziel,

Regional Administrator.

[FR Doc. 2020-10011 Filed: 5/8/2020 8:45 am; Publication Date: 5/11/2020]