

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG530000

To discharge seafood packing and rinsing, fish farm, and similar wastewaters under the

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES)

In compliance with the provisions of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission and the Federal Water Pollution Control Act, as amended, this permit is hereby issued to all owners or operators, hereafter Permittees, covered by this permit as evidenced by receipt of a Certificate of Coverage issued by the Environmental Management Commission to allow the discharge of wastewater in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III and IV hereof.

This permit shall become effective **August 1, 2007**.

This permit shall expire at midnight on **July 31, 2012**.

ORIGINAL SIGNED BY GIL VINZANI

Coleen Sullins, Director
Division of Water Quality
By Authority of the Environmental Management Commission

PART I

MONITORING, CONTROLS, AND LIMITATIONS FOR PERMITTED DISCHARGES

PART I

Section A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of the permit and lasting until expiration, the Permittee is authorized to discharge from outfalls numbered serially beginning with 001. Such discharges shall be limited and monitored by the Permittee as specified below:

EFFLUENT CHARACTERISTICS	LIMITS			MONITORING REQUIREMENTS		
	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Location
Flow				Annually	Estimate	Effluent
Total Suspended Solids (1)	30.0 mg/L		60.0 mg/L (1)	Annually	Grab	Effluent
Settleable Solids	5.0 ml/L		10.0 ml/L	Annually	Grab	Effluent
Dissolved Oxygen (2)				Annually	Grab	Effluent

Footnotes:

- (1) If the Permittee discharges to Class **HQW** (High Quality Waters), the **Total Suspended Solids** Daily Maximum limit shall not exceed **20.0 mg/L**. If the discharge is to Class **Tr** (Trout) waters, the **Total Suspended Solids** Daily Maximum limit shall not exceed **10.0 mg/L** (See Certificate of Coverage cover letter for receiving-water classification.).
- (2) Daily Average effluent concentration of **Dissolved Oxygen** shall not fall below **6.0 mg/L**.

General Conditions:

- Effluent **pH** for **freshwater** classifications shall not fall below **6.0** nor exceed **9.0** standard units.
- Effluent **pH** for **saltwater** classifications shall not fall below **6.8** nor exceed **8.5** standard units.
- The Permittee shall discharge no floating solids or foam visible in other than trace amounts.
- If effluent discharges to Nutrient Sensitive Waters (**NSW**), Permittees operating hatcheries, fish farms or similar facilities shall use low-phosphorus food (See Certificate of Coverage cover letter for receiving-water classification.).
- No fish/seafood offal or fish/seafood carcasses shall discharge from any facility covered by this General Permit.

Special Conditions: This permit **may** require the Permittee to create and implement a written plan addressing Operation and Maintenance Best Management Practices (**See Part V**). Compliance with Part V shall begin on **August 1, 2008**, 12 months after the permit effective date.

PART I

SECTION B. SCHEDULE OF COMPLIANCE

1. The Permittee shall comply with Final Effluent Limitations by the effective date of the Certificate of Coverage.
2. Permittee shall at all times provide the planning, scheduling and maintenance necessary to operate the existing facilities in accordance with Part II.C.2 of this permit.

SECTION C. APPLICABILITY

1. This General Permit covers point source discharges of seafood/fish packing and rinsing operations, and any other discharge of similar characteristics, as decided by the Division.
2. This General Permit covers fish farms and any other similar discharge, as decided by the Division.
3. This General Permit does **not** apply to seafood or fish processing facilities that require an individual NPDES permit.
4. **Concentrated Aquatic Animal Production** facilities subject to the NPDES program are defined, but not limited to, a hatchery, fish farm, pond, raceway, net pen, submerged cage system, recirculating system, flow-through system or similar structures that meet the following criteria:
 - a. **Cold-water** species facilities that produce a minimum 20,000 lbs (9,072 kilos) harvest-weight of aquatic animals per year, feed more than 5,000 lbs (2,268 kilos) of food per calendar month, and discharge more than **30 days per year**.
 - b. **Warm-water** species facilities that produce a minimum 100,000 lbs (45,359 kilos) harvest-weight of aquatic animals per year, and discharge more than **30 days per year**.
 - c. The Director may designate **any** cold or warm water aquatic animal production facility a *concentrated aquatic animal production* facility, or may require an individual NPDES permit, upon determining that it is a significant contributor of pollution to the surface waters of North Carolina.

SECTION D. NOTICE OF INTENT

Individuals intending to obtain coverage under this General Permit shall submit a Notice of Intent (NOI). A current version of this permit's NOI can be obtained by contacting the Stormwater / Wetlands Branch at 919/733-5083 or can be downloaded from the Internet at: <http://h2o.enr.state.nc.us/su/stormwater.html>

NOIs must be signed and submitted to:

Stormwater / Wetlands Branch
1617 Mail Service Center
Raleigh, NC 27699-1617

Applicants who have submitted an NOI are **not** authorized to discharge until the Division issues a Certificate of Coverage. In general, the NOI shall include the following information:

1. The mailing address and telephone number for the owner and/or operator.
2. The facility name, address and telephone number where the discharge will occur.
3. The permit number of any NPDES permit(s) for any discharge(s) from the site.
4. A description of the discharge, including the number of discharge points, the volume of discharge, the frequency of discharge and any treatment methods applied prior to discharge.
5. The name of the receiving waters and the stream classification (if known).
6. An analysis of non-discharge alternatives, including connection to a regional sewer collection system, subsurface disposal and spray irrigation.
7. A 7.5-minute series USGS topographic map clearly indicating the discharge location.
8. Final plans and specifications for the treatment system including all major components (if applicable).
9. Certification that the information contained in the NOI is true, complete, and accurate.

PART II STANDARD CONDITIONS FOR NPDES PERMITS

SECTION A. DEFINITIONS

1. Permit Issuing Authority: The Director of the Division of Water Quality.
2. DWQ or Division: Division of Water Quality, Department of Environment and Natural Resources.
3. EMC: North Carolina Environmental Management Commission.
4. Permittee: The entity who obtains coverage under this general permit by subsequent issuance of a "Certificate of Coverage" by the Division of Water Quality.
5. Act or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq.
6. Concentration Measurements
 - a. Average Monthly Concentration: The sum of the concentrations of all daily discharges sampled and/or measured during a calendar month on which daily discharges are sampled and measured, divided by the number of daily discharges sampled and/or measured during such month (arithmetic mean of the daily concentration values). The daily concentration value in the case of grab samples is the arithmetic mean (weighted by flow value) of all the samples collected during that calendar day.
 - b. Maximum Daily Concentration: The concentration of a pollutant discharge during a calendar day. If only one sample is taken during any calendar day the concentration of pollutant calculated from it is the "Maximum Daily Concentration". It is identified as "Daily Maximum" in Part I of the permit.
 - c. Daily Average Concentration (for dissolved oxygen): The minimum allowable amount of dissolved oxygen required to be available in the effluent prior to discharge averaged over a calendar day. If only one dissolved oxygen sample is taken over a calendar day, the sample is considered to be the "daily average concentration" for the discharge. It is identified as the "daily average" in the text of Part I.
7. Other Measurements
 - a. Flow (MGD): The 24-hour average flow, averaged monthly. It is determined as the arithmetic mean of the total daily flows recorded during the calendar month.
 - b. Instantaneous Flow Measurement: A flow measurement taken at the time of sampling, when both the sample and flow represent the total discharge.
 - c. Continuous Flow Measurement: A measure of discharge flow from the facility occurring continually without interruption throughout the operating hours of the facility. Flow shall be monitored continually except for the infrequent times when there may be no flow or during infrequent maintenance of the flow device.
8. Grab Samples: Individual samples of at least 100 ml collected over a period of time not exceeding 15 minutes. Grab samples can be collected manually.
9. Calculation of Means
 - a. Arithmetic Mean: The summation of the individual values divided by the number of individual values.
 - b. Geometric Mean: The Nth root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).
 - c. Weighted by Flow Value: The summation of each concentration times its respective flow divided by the summation of the respective flows.

10. Calendar Day: The period from midnight of one day until midnight of the next day. However, for purposes of this permit, any consecutive 24-hour period that reasonably represents the calendar day may be used for sampling.
11. Hazardous Substance: Any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.
12. Toxic Pollutant: Any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act.
 1. Bypass: The intentional diversion of waste streams from any portion of a treatment facility (including the collection system). The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation.
14. Severe property damage: Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
15. Upset: An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

SECTION B. GENERAL CONDITIONS

1. Duty to Comply

The Permittee must comply with all conditions of this general permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit upon renewal application.

- a. The Permittee shall comply with standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- b. The Clean Water Act provides that any person who violates a permit condition is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who negligently violates any permit condition is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. Any person who knowingly violates permit conditions is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. Also, any person who violates a permit condition may be assessed an administrative penalty not to exceed \$10,000 per violation with the maximum amount not to exceed \$125,000. [Ref: Section 309 of the Federal Act 33 USC 1319 and 40 CFR 122.41(a).]
- c. Under state law, a daily civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [Ref: North Carolina General Statutes 143-215.6A]
- d. Any person may be assessed an administrative penalty by the Director for violating section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

2. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, C.4.) and "Power Failures" (Part II, C.7.), nothing in this permit shall be construed to relieve the Permittee from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS 143-215.3, 143-215.6 or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the Permittee is

responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject to under NCGS 143-215.75 et seq. or Section 311 of the Federal Act, 33 USG 1321. Furthermore, the Permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

6. Onshore or Offshore Construction

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

7. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

8. Duty to Provide Information

The Permittee shall furnish to the Permit Issuing Authority, within a reasonable time, any information which the Permit Issuing Authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to the Permit Issuing Authority upon request, copies of records required by this permit.

9. Duty to Reapply

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit.

10. Permit Termination

After public notice and opportunity for a hearing, the general permit and Certificates of Coverage issued under this general permit may be terminated for cause.

11. When an Individual Permit may be Required

The Division may require any owner authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

- a. The discharger is a significant contributor of pollution.
- b. Conditions at the operating facility change altering the constituents and/or characteristics of the discharge such that the discharge no longer qualifies for a General Permit.
- c. The discharge violates the terms or conditions of this permit.
- d. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
- e. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual owner for any of the reasons set forth above after appropriate notice in accordance with N.C.G.S. 143-215.1.

12. When an Individual Permit may be Requested

Any Permittee operating under this permit may request to be excluded from the coverage by applying for an individual permit. When an individual permit is issued, the applicability of this general permit is automatically terminated on the effective date of the individual permit.

13. Signatory Requirements

All applications, reports, or information submitted to the Permit Issuing Authority shall be signed and certified.

a. All permit applications shall be signed as follows:

- (1) In the case of a corporation, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the permit application form originates;
- (2) In the case of a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- (3) In the case of a municipality, State, Federal, or other public entity by either a principal executive officer, ranking elected official, or other duly authorized employee.

b. Certification: Any person signing a document under paragraph a. of this section shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

14. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

15. Permit Modification, Revocation and Reissuance, or Termination

The issuance of this permit does not prohibit the permit issuing authority from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 2H .0100; and North Carolina General Statute 143-215.1 et. al.

SECTION C. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Certified Operator

Pursuant to Chapter 90A-44 of North Carolina General Statutes, the Permittee shall employ a certified wastewater treatment plant operator in responsible charge (ORC) of the wastewater treatment facilities. Such operator must hold a certification of the grade equivalent to or greater than the classification assigned to the wastewater treatment facilities. The Permittee shall notify the Division's Operator Training and Certification Unit within thirty days of any change in the ORC status. **NOTE: This requirement does not apply until the Permittee receives a letter notifying them of classification of the facility. Currently, facilities are not being classified for this purpose, but may at some time in the future.**

2. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to Halt or Reduce not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Bypassing of Treatment Facilities

a. Bypass not exceeding limitations.

The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs b. and c. of this section.

b. Notice

(1) Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass; including an evaluation of the anticipated quality and affect of the bypass.

(2) Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required in Part II.E.6 of this permit. (24-hour notice).

c. Prohibition of Bypass

(1) Bypass is prohibited and the Permit Issuing Authority may take enforcement action against a Permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The Permittee submitted notices as required under Paragraph b. of this section.

(2) The Permit Issuing Authority may approve an anticipated bypass, after considering its adverse affects, if the Permit Issuing Authority determines that it will meet the three conditions listed above in Paragraph c. (1) of this section.

5. Upsets

a. Effect of an upset.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph b. of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the Permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated; and

(3) The Permittee submitted notice of the upset as required in Part II.E.6.b.2 of this permit.

(4) The Permittee complied with any remedial measures required under Part II.B.2 of this permit.

c. Burden of proof.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with NCGS 143-215.1 and in a manner such as to prevent any pollutant from such materials from entering waters of the State or navigable waters of the United States. The Permittee shall comply with all existing federal regulations governing the disposal of sewage sludge. Upon promulgation of 40 CFR Part 503, any permit issued by the Permit Issuing Authority for the disposal of sludge may be reopened and modified, or revoked and reissued, to incorporate applicable requirements at 40 CFR Part 503. The Permittee shall comply with applicable 40 CFR Part 503 Standards for the Use and Disposal of Sewage Sludge (when promulgated) within the time provided in the regulation, even if the permit is not modified to incorporate the requirement. The Permittee shall notify the Permit Issuing Authority of any significant change in its sludge use or disposal practices.

7. Power Failures

The Permittee is responsible for maintaining adequate safeguards as required by DWQ Regulation, Title 15A, North Carolina Administrative Code, Subchapter 2H, .0124 Reliability, to prevent the discharge of untreated or inadequately treated wastes during electrical power failures either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

SECTION D. MONITORING AND RECORDS

1. Representative Sampling

Samples collected and measurements taken, as required herein, shall be characteristic of the volume and nature of the permitted discharge. Samples collected at a frequency less than daily shall be taken on a day and time that is characteristic of the discharge over the entire period which the sample represents. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Permit Issuing Authority.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from the true discharge rates throughout the range of expected discharge volumes.

3. Test Procedures

Test procedures for the analysis of pollutants shall conform to the EMC regulations published pursuant to NCGS 143-215.63 et. seq., the Water and Air Quality Reporting Acts, and to regulations published pursuant to Section 304(g), 33 USC 1314, of the Federal Water Pollution Control Act, as Amended, and Regulation 40 CFR 136. To meet the intent of the monitoring required by this permit, all test procedures must produce minimum detection and reporting levels that are below the permit discharge requirements and all data generated must be reported down to the minimum detection or lower reporting level of the procedure. If no approved methods are determined capable of achieving minimum detection and reporting levels below permit discharge requirements, then the most sensitive (method with the lowest possible detection and reporting level) approved method must be used.

4. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. In the case of a second or subsequent conviction, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

5. Records Retention

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

6. Recording Results

For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

7. Inspection and Entry

The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to:

- a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy any records that must be kept under the conditions of this permit;
- c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

SECTION E. REPORTING REQUIREMENTS

1. Submission of Reports

Submission of standardized monitoring forms or other monitoring reports to the Division is not required. All monitoring information and copies of any reports required by this permit, must be retained on site for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. The Permittee shall furnish to the Permit Issuing Authority upon request, copies of records required under this permit.

2. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

3. Planned Changes

The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29 (b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR Part 122.42 (a) (1).

4. Anticipated Noncompliance

The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

5. Transfers

This permit is not transferable to any person except after notice to and approval by the Director. The Director may require modification or revocation and reissuance of the permit and incorporating such other requirements as may be necessary under the Clean Water Act.

6. Duty to Report Noncompliance

- a. The Permittee shall report to the central office or the appropriate regional office any noncompliance that may endanger health or the environment. Any information shall be provided orally **within 24 hours** from the time the Permittee became aware of the circumstances. A written submission shall also be provided **within 5 days** of the time the Permittee becomes aware of the circumstances.
 - (1) The written submission shall contain a description of the noncompliance, and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- b. The Permittee shall report the following to the Division **within 24 hours**:
 - (1) any unanticipated bypass exceeding any effluent limitation in the permit.
 - (2) any upset which exceeds any effluent limitation in the permit.
 - (3) any violation of a maximum daily or monthly average discharge limitation for any pollutant listed by the Director in the permit.
- c. The Director may (on a case-by-case basis) waive the written report under paragraph b. above if the oral report has been received within 24 hours.

7. Other Information

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit the correct facts or information.

8. Noncompliance Notification Procedure

The Permittee shall report by telephone to either the central office or the appropriate regional office of the Division as soon as possible, but in no case more than 24 hours or on the next working day following the occurrence or first knowledge of the occurrence of any of the following:

- a. Any occurrence at the water pollution control facility which results in the discharge of significant amounts of wastes which are abnormal in quantity or characteristic, such as the dumping of the contents of a sludge digester; the known passage of a slug of hazardous substance through the facility; or any other unusual circumstances.
- b. Any process unit failure, due to known or unknown reasons, that render the facility incapable of adequate wastewater treatment such as mechanical or electrical failures of pumps, aerators, compressors, etc.
- c. Any failure of a pumping station, sewer line, or treatment facility resulting in a by-pass directly to receiving waters without treatment of all or any portion of the influent to such station or facility.

Persons reporting such occurrences by telephone shall also file a written report in letter form **within 5 days** following first knowledge of the occurrence.

9. Availability of Reports

Except for data determined to be confidential under NCGS 143-215.3(a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms shall be made available for public inspection at the offices of DWQ or at the site of the discharge within a reasonable time period, not to exceed five (5) days. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.1(b)(2) or in Section 309 of the Federal Act.

10. Penalties for Falsification of Reports

The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both.

PART III OTHER REQUIREMENTS

1. Previous Permits
All previous State water quality permits issued to this facility for this particular discharge, whether for construction or operation or discharge, are hereby revoked by issuance of this permit and subsequent issuance of a Certificate of Coverage. The conditions, requirements, terms, and provisions of this permit authorizing discharge under the National Pollutant Discharge Elimination System govern discharges from this facility.
2. Construction
No construction of wastewater treatment facilities or additions thereto shall be begun until Final Plans and Specifications have been submitted to DWQ and the Division has granted approval. Design and operation of facilities and/or treatment works shall be in accordance with the application and supporting information. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the Permittee to correct such deficiencies.
3. Limitations Reopener
This permit shall be modified or alternatively, revoked and reissued, to comply with any applicable effluent guideline or water quality standard issued or approved under Sections 302(b) (2) (c), and (d), 304(b) (2), and 307(a) (2) of the Clean Water Act, if the effluent guideline or water quality standard so issued or approved:
 - a. contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
 - b. controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements in the Act then applicable.

PART IV ANNUAL ADMINISTERING & COMPLIANCE MONITORING FEE

The Permittee must pay the annual administering and compliance-monitoring fee (if any such fee is assessed) within 30 days after being billed by the Division. Failure to pay such fees in a timely manner in accordance with 15 NCAC 2H.0105(b)(4) may cause the Division to initiate action to revoke the Certificate of Coverage.

PART V SPECIAL CONDITIONS - BEST MANAGEMENT PRACTICES (BMPS)

Concentrated Aquatic Animal Production (CAAP) facilities, as defined by this permit (See **Part I, Section C. Applicability, 4. a., b. and c.**, that produce a minimum 100,000 lbs (45,359 kilos) harvest-weight of aquatic animals per year, shall develop and maintain a written plan describing how to achieve onsite requirements in compliance with EPA **40 CFR Sec. 451.11(a) through (e) or Sec. 451.21(a) through (h)**. The Permittee shall make the plan available to the Division upon request, and Permittees subject to this Part must certify in writing to the Division that a BMP Plan has been developed.

Narrative limitations, rather than specific permit limits, address a number of pollutants potentially present in CAAP wastewaters such as spilled materials (drugs, pesticides and feed), fish carcasses, viscera and other waste, excess feed, feed bags, packaging material and netting. The following summarizes permit-specific requirements.

1. Operation and Maintenance BMP Plan. The Division shall require a CAAP facility to create and implement a written Operations and Maintenance BMP Plan, to include regular records keeping. The CAAP facility owner or operator must **certify in writing** to the Division that this plan has been developed (See **40CFR 451.3**). This BMP Plan shall remain

onsite available for inspection, and operation and maintenance records shall remain onsite for a minimum of 3 years available for inspection by the state. This BMP Plan shall address the following, but is not limited to:

- a. **Materials Management** – CAAP facilities shall ensure proper storage of drugs, pesticides and feed to prevent spills and any resulting discharges of drugs and pesticides. The BMP plan shall describe how the facility minimizes solids discharges through feed management and how it complies with prohibitions on the discharge of feedbags and/or other solid waste materials. Net pens must minimize the accumulation of uneaten feed beneath the pens through active feed monitoring and management strategies.
 - b. **Inspection and Maintain of Facilities and Containment Structures** – The Permittee shall provide inspection and regular maintenance of CAAP production and treatment systems to prevent structural damage.
 - c. **Spill Response and Prevention** – The Permittee shall define and implement procedures and acquire any relevant materials and equipment to contain and respond to loss of fish, fish parts and offal, feed, pesticides, drugs, or other materials potentially hazardous to the waters of the state.
 - d. **Training** – The Permittee shall provide for training of responsible personnel in proper procedures of materials handling, facility inspection, and maintenance of CAAP production and treatment systems (as described in a., b., and c. above). Training shall also include reporting procedures to the Division associated with spills and containment structure failures or drug use (see 2.).
2. Reporting Requirements. As a means to prevent adverse impacts in the receiving stream, the Division requires reporting of facility damage, material spills, drug testing and drug use. The Division expects facilities to implement proper storage for these products, and implement procedures for containing, cleaning and disposing of spilled material. Facilities are expected to make an oral and a written report to the Division (See 40 CFR 451.3).
- a. **Spills** – the Permittee shall alert the Division to any loss of hazardous materials such drugs, pesticides or feed with potential impact to the environment. The Permittee shall make an oral report to the Division **within 24 hours** of the spill's occurrence followed by a written report **within 5 days**. The report shall identify the material spilled and estimate the amount (40 CFR 451.3). Upon receiving the oral report, the Division may on a case-by-case basis, differ the requirement for a written report.
 - b. **Damage or Breach of Containment Structures** – the Permittee shall alert the Division to any damage to containment structures such as berms, containers, ponds or nets that results in a loss of materials hazardous to the receiving stream. The Permittee shall make an oral report to the Division **within 24 hours** of the spill's occurrence followed by a written report **within 5 days**. The report shall identify the material spilled and estimate the amount spilled (40 CFR 451.3). Upon receiving the oral report, the Division may on a case-by-case basis, differ the requirement for a written report.
 - c. **Participation in INAD Testing and the Use of Extralabel Drugs** – CAAP facilities must notify the Division in writing **within 5 days** of signing up to participate in *investigational new animal drug* (INAD) testing, in accordance with **40 CFR 451.3**. The Permittee shall report the intended use of INADs and any extralabel drugs both orally and in writing. Based on the oral report, the Division may implement site-specific action, as warranted. The written report shall confirm the use of the drug and provide more complete data for future analysis and measures control.
- INAD or Extralabel Drug Reporting Exception:** If the Division has already approved a Permittee's use of a specific INAD or extralabel drug, additional approval to treat another species, or to treat another disease using this INAD or extralabel drug, is not necessary **provided that the Permittee maintain similar treatment conditions and restrict the dosage not to exceed the approved dosage** (See **40 CFR 451.3**).