

# **Compliance Guide for the Concentrated Aquatic Animal Production Point Source Category**

## **Chapter 3: Does the CAAP Regulation Affect Me?**

Full document available at  
<http://www.epa.gov/waterscience/guide/aquaculture>

## Chapter 3: Does the CAAP Regulation Affect Me?

CAAP ELGs apply to owners and operators of CAAP facilities that meet certain conditions. If you produce more than 100,000 pounds annually, you may be subject to the ELGs.

Aquaculture facilities will fall into one of the following categories:

- No NPDES permit required
- Only NPDES permit required
- NPDES permit with ELGs requirements

If your aquatic animal operation is a CAAP under the NPDES regulations, you must apply for an NPDES permit. Refer to the next two sections in this chapter for additional information about which types of aquaculture facilities are required to apply for a permit (or renew their permit when their current permit expires if they are already permitted).

This chapter provides information about which operations are CAAPs and subject to NPDES permitting requirements, which are covered under the CAAP ELGs, what to do if you have more than one type of system at your facility, which facilities do not need an NPDES permit, how you know that your facility is not a CAAP, how a facility is defined, and what part of a facility is regulated.

### What operations are CAAPs under the NPDES regulation?

EPA's existing NPDES regulations define when a hatchery, fish farm, or other facility is a CAAP facility and, therefore, a point source subject to the NPDES permit

program. (See 40 CFR 122.24.) In defining CAAP facilities, the NPDES regulations distinguish between warm water and cold water species of fish and define a CAAP facility by, among other things, the size of the operation and frequency of discharge.

*The criteria described in Appendix C of 40 CFR 122 are as follows. A hatchery, fish farm, or other facility is a CAAP facility if it grows, contains, or holds, aquatic animals in either of two categories: cold water species or warm water species.*

*The cold water species category includes facilities where animals are produced in ponds, raceways, or other similar structures that discharge at least 30 days per year but does not include facilities that produce less than approximately 9,090 harvest weight kg (approximately 20,000 lb) of aquatic animals per year. It also does not include facilities that feed less than 2,272 kg (approximately 5,000 lb) of food during the calendar month of maximum feeding.*

*The warm water species category includes facilities where animals are produced in ponds, raceways, or other similar structures that discharge at least 30 days per year. It does not include closed ponds that discharge only during periods of excess runoff or facilities that produce less than 45,454 harvest weight kg (approximately 100,000 lb) of aquatic animals per year.*

A facility is a CAAP facility if it meets the criteria in 40 CFR 122, Appendix C<sup>1</sup> or if it is designated as a CAAP facility by the

<sup>1</sup> 40 CFR 122, Appendix C is available in Appendix D of this document.

Director<sup>2</sup> on a case-by-case basis.

Most facilities falling under the definition of CAAP are either flow-through, recirculating or net pen systems. These systems discharge continuously or discharge 30 days or more per year as defined in 40 CFR 122.24 and are subject to permitting depending on the production level at the facility.

Most pond facilities do not require permits because ponds generally discharge fewer than 30 days per year and therefore generally are not CAAP facilities, unless designated by the Director.

Facilities meeting the NPDES definition of a CAAP will still be subject to the NPDES permit program, even if they are not subject to the requirements of the ELGs because their production levels are below 100,000 pounds per year.

*Under 40 CFR 122, Appendix C:*

*"Cold water aquatic animals" include, but are not limited to, the Salmonidae family of fish; e.g., trout and salmon.*

*"Warm water aquatic animals" include, but are not limited to, the Ameiuride, Centrarchidae and Cyprinidae families of fish; e.g., respectively, catfish, sunfish and minnows.*

Refer to Appendix L for a description of which systems the NPDES regulations cover.

<sup>2</sup> Director means the Regional Administrator or State Director, as the context requires, or an authorized representative. When there is no "approved state program," and there is an EPA administered program, "Director" means the Regional Administrator. When there is an approved state program, "Director" normally means the State Director. In some circumstances, EPA retains the authority to take certain actions even when there is an approved state program. 📖 Regulation: 40 CFR122.2

## What operations are covered under the CAAP ELGs?

The CAAP ELGs applies to direct dischargers of wastewater from these existing and new facilities (where production is defined as what leaves the facility):

- Facilities that produce at least 100,000 pounds a year in flow-through and recirculating systems that discharge wastewater at least 30 days a year (used primarily to raise trout, salmon, hybrid striped bass, and tilapia).
- Facilities that produce at least 100,000 pounds a year in net pens or submerged cage systems (used primarily to raise salmon).

Refer to Appendix L for a description of which systems are covered by the ELGs.



Figure 3.1. A flow-through system

## What is the difference between NPDES and ELGs for CAAPs?

Any facility may be designated as a CAAP (if it meets the NPDES regulation requirements outright or if the Director designates it as a CAAP facility) and subject to NPDES permitting requirements.

However, if a CAAP facility is subject to ELGs requirements (i.e., recirculating, flow-through, or net pen systems that annually produce more than 100,000 pounds of aquatic animals) then the facility's NPDES permit will also contain ELGs requirements specific to the system types used to produce aquatic animals at that location. These are minimum requirements in the NPDES permit. A permit may contain additional more stringent limits required to ensure compliance with water quality standards.

### What is considered a facility?

A facility is defined as all contiguous property and equipment owned, operated, or leased, or under control of the same person or entity. Each system owned, operated, leased, or under the control of the same person or entity that is not contiguous can and should be treated as separate facilities; the production threshold used in determining if a facility is a CAAP should also be applied separately.

 Regulation: 40 CFR 451

### What if I have more than one type of production system at my facility?

If you have more than one type of regulated system (flow-through, recirculating, or net pen) at your facility (and the combined annual production is 100,000 pounds or more), you must comply with the different requirements for each system type. For example, if you have a recirculating system and net pens at your facility, you will need to comply with the ELGs requirements for both recirculating systems and net pens. For more information about different system types and meeting the ELGs' production threshold, refer to the following examples.

*The following are examples of combinations of system types that CAAP facilities may have, and whether the CAAP ELGs and NPDES requirements apply:*

- *Recirculating – 25,000 pounds annually; Net pen – 80,000 pounds annually. (Both systems are regulated by the ELGs and NPDES requirements.)*
- *Flow-through – 75,000 pounds annually  
Recirculating – 50,000 pounds annually. (Both systems are regulated by NPDES requirements. If both are part of the same facility, the ELGs requirements also apply.)*
- *Flow-through – 25,000 pounds annually  
Recirculating – 50,000 pounds annually. (Neither is regulated by the ELGs; if growing coldwater species or determined to be a significant source of pollution to waters of the United States by the permitting authority, both are subject to NPDES requirements.)*
- *Flow-through – 125,000 pounds annually  
Pond – 15,000 pounds annually, discharging fewer than 30 days per year. (The flow-through system is regulated under the ELGs and NPDES; the pond is not regulated by the NPDES or ELGs regulations, unless the permitting authority determines that the pond is a significant source of pollution to waters of the United States.)*
- *Flow-through – 125,000 pounds annually  
Pond – 135,000 pounds annually and discharging more than 30 days per year. (The flow-through system is regulated under the ELGs and the pond is regulated by the NPDES regulations.)*
- *Net pen – 325,000 pounds annually  
Molluscan shellfish – 130,000 pounds annually. (The net pen is regulated by the ELGs and NPDES requirements; the molluscan shellfish system is not regulated by either unless the permitting authority determines it to be a significant source of pollution to waters of the United States.)*



Figure 3.2. A recirculating system

If you have other system types in addition to those subject to the ELGs, such as ponds or shellfish hatcheries, those system types are not subject to the ELGs (refer to page 3-5 of this chapter for a list of systems that are not subject to the ELGs). For example, if your facility has recirculating systems and ponds, only the recirculating systems are subject to the ELGs if the recirculating systems meet the annual production requirements of at least 100,000 pounds. The requirements for your recirculating system will appear in your NPDES permit. The ponds at your facility would not be subject to the ELGs requirements. However, you may need an NPDES permit if your ponds meet the definition of the cold water or warm water species category, where the ponds discharge at least 30 days per year (40 CFR 122, Appendix C) or if your pond is part of a facility that has been designated a CAAP facility.

If you are unsure which system types at your facility are subject to the ELGs requirements, contact your permitting authority.



Figure 3.3. A net pen system

### Are there any aquaculture facilities that do not need an NPDES permit?

You do not need an NPDES permit if you are a facility that produces less than 9,090 harvest weight kilograms (approximately 20,000 pounds) per year of cold water species, if you feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding, or if you discharge less than 30 days per year (40 CFR 122, Appendix C). However, you may need an NPDES permit if your facility is designated as a CAAP facility by the Director or if your state has more stringent requirements than EPA.

You do not need an NPDES permit if you are a facility that produces warm water species, using closed ponds that discharges only during periods of excess runoff, if you are a facility that produces less than 45,454 harvest weight kilograms (approximately 100,000 pounds) per year of warm water species, or if you discharge less than 30 days per year (40 CFR 122, Appendix C). However, you may need an NPDES permit if your facility is designated as a CAAP facility by the Director or if your state has more stringent requirements than EPA.

## How do I know if I am not covered by these regulations?

In most cases, you are not covered by the NPDES or ELGs regulations if your production is less than the annual production thresholds covered by the regulations. However, if the Director designates your facility as a CAAP facility or if your state has more stringent requirements than EPA, you can be subject to NPDES permit requirements.

Systems not covered by the CAAP ELGs include:

- Closed pond systems (may be covered by NPDES if discharges occur more than 30 days per year or if designated as a CAAP facility by the Director)
- Molluscan shellfish (including nurseries)
- Shrimp ponds
- Crawfish production
- Alligator production
- Aquaria
- Net pens rearing native species released after a growing period of no longer than 4 months to supplement commercial and sport fisheries.

## What if I discharge to a POTW?

The CAAP ELGs do not establish national pretreatment standards for facilities that meet the criteria for a

CAAP facility (as defined in 40 CFR 122.24 and Appendix C of 40 CFR 122) and are indirect dischargers (i.e., facilities that discharge to a publicly owned treatment

*An indirect discharger is a facility that discharges or may discharge wastewaters into a publicly-owned treatment works.*

works (POTW)). However, you may be subject to local limit requirements.

National pretreatment standards are established for pollutants in wastewater from indirect dischargers that may pass through, interfere with, or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. POTWs are required to implement local treatment limits applicable to their indirect dischargers to satisfy any local requirements. You should communicate with your POTW operator to determine any local pretreatment standards that apply to your facility.

*A Publicly Owned Treatment Works (POTW) is a treatment works (as defined by section 212 of the CWA), which is owned by a state or municipality (as defined by section 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances, only if they convey wastewater to a POTW. The term also means the municipality, as defined in section 502(4) of the CWA, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.*

If you discharge to a POTW, contact your permitting authority for more details.

## What part of my CAAP is regulated?

The CAAP regulation applies to the production areas of your facility, including:

- Areas where you might grow, maintain, or contain aquatic animals (e.g., raceways, tanks, or net pens).
- Areas where you might store raw materials (e.g., feed silos and storage areas designated for feed or drugs).
- Areas where you might contain wastes (e.g., sedimentation basins, quiescent zones, and settling ponds).
- Source water and wastewater conveyance systems (e.g., tailraces and headraces).

No specific guidance for land application of waste was developed for the CAAP ELGs. If a facility is doing land application, a good source of information regarding land application is EPA's *Producers' Compliance Guide for CAFOs*, available at [http://www.epa.gov/npdes/pubs/cafo\\_prod\\_guide\\_cover\\_and\\_contents.pdf](http://www.epa.gov/npdes/pubs/cafo_prod_guide_cover_and_contents.pdf).



Figure 3.4. A feed storage area