



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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JUN 19 2017

OFFICE OF
WATER AND WATERSHEDS

Ms. Elizabeth J. Ruther
Coastal State-Federal Relations Coordinator
Oregon Coastal Management Program
Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, Oregon 97301-2540

Re: Consistency Determination pursuant to the Coastal Zone Management Act for the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Seafood Processors in Federal Waters off the coast of Washington and Oregon (General Permit Number WAG52000)

Dear Ms. Ruther:

The Coastal Zone Management Act (CZMA) as amended, 16 U.S.C. Sections 1451 to 1465, requires each federal agency activity, within or outside the coastal zone that affects any land or water use or natural resource of the coastal state, to be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of an approved State management program. Each federal agency carrying out such an activity must provide a consistency determination to the relevant State agency before final approval of the action.

As a federal agency activity, the proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Seafood Processors in Federal Waters off the coast of Washington and Oregon (Permit No. WAG520000) is subject to consistency review pursuant to Section 307 of the Coastal Zone Management Act (CZMA) and attendant regulations of 15 CFR Part 930, Subpart C. The EPA reviewed its proposed NPDES General Permit to ensure that its action would be consistent to the maximum extent practicable with the enforceable policies of the Oregon Coastal Management Program. This program and its amendments are approved by the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Department of Land Conservation and Development is Oregon's designated coastal zone management agency pursuant to Section 306(c)(5) of the CZMA and Oregon's statutes at ORS Section 196.435.

The proposed General Permit would authorize discharges of seafood processing waste from facilities discharging in Federal Waters off the coasts of Washington and Oregon. The draft General Permit will cover federal waters within the U.S. Exclusive Economic Zone (EEZ), between 3 and 200 miles off the Washington and Oregon coast. The EPA's jurisdiction begins 3 nm seaward from the offshore rocks and islands. The greatest distance is off the Orford Reef complex (specifically, Fox Island, where Oregon's Territorial Sea boundary is approximately 8 nm from the mainland shoreline). The proposed General Permit does not authorize any discharge within State waters.

This will be the first issuance of this General Permit, and the first time this sector has received NPDES permit coverage off the coast of Oregon and Washington. NPDES permits expire after five years; the proposed permit will be reissued at that time. These seafood processing facilities engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of washed or unwashed mince or paste, or the processing of meal and other secondary by-products. Currently, there are 16 seafood processing facilities (comprised of the Pacific whiting fleet) that discharge effluent into waters of the U.S. that operate in these Federal Waters. This Permit does not authorize the discharge of pollutants from any shore based facilities, nor any pollutants from vessels transporting material for the purposes of dumping materials into ocean waters.

Proposed permit conditions include the following:

- Permittees must send all solid seafood processing wastes through a properly maintained and operating grinder system designed and operated to grind solids to 0.5 inch or smaller prior to discharge.
- The draft General Permit also includes monitoring/reporting and best management/waste minimization requirements.
- Permittees must be moving while discharging, unless doing so would impact the safety of the vessel.
- In order to avoid triggering or exacerbating hypoxic conditions because of additional nutrient inputs from seafood processing waste, the EPA proposes to prohibit the discharge of seafood processing waste in waters shallower than 100 meters in depth during April 15 – October 15, and year-round over the Heceta/Stonewall Banks complex off the coast of Oregon.

For a complete description of the proposed permit conditions, and the basis for and impact of the permit, please refer to the following enclosed materials:

1. Re-proposed draft General Permit
2. Fact Sheet from the first public comment period
3. Fact Sheet for the re-proposed draft General Permit
4. EPA's Federal Consistency Determination
5. Biological Evaluation (revised December, 2016)
6. Ocean Discharge Criteria Evaluation.

In accordance with 15 CFR § 930.34 (Federal and State agency coordination), EPA Region 10 has engaged in close coordination with your program. On November 8, 2016, Catherine Gockel of my staff provided a draft consistency determination so that you could review it for completeness. On December 20, 2016, you submitted comments to the EPA. Coordination has been ongoing throughout this past year, and the EPA appreciates your program's assistance and coordination. As you are aware, Catherine Gockel has also reached out to the Oregon Department of Fish and Wildlife and to the Oregon Department of Environmental Quality to better understand their perspectives and concerns regarding the draft General Permit. At the recommendation of the Oregon Department of Fish and Wildlife, the EPA also consulted with prominent Oregon-based oceanographers and hypoxia experts at the Oregon State University and the National Oceanic and Atmospheric Administration (NOAA). Notably, and largely in response to Oregon's concerns, the re-proposed draft General Permit addresses seasonal hypoxia and protects the Heceta/Stonewall Banks rocky reef complex. The EPA has also clarified the jurisdiction of this General Permit in order to differentiate federal waters from the Oregon Territorial Sea.

The EPA's enclosed consistency determination discusses the reasonably foreseeable direct and indirect effects of the proposed General Permit on coastal uses and resources. After considering these effects, we have determined that the General Permit is consistent to the maximum extent practicable with the enforceable policies of the OCMP. The EPA's consistency determination includes all required components for the content of a consistency determination as set out by 15 C.F.R. Section 930.39.

If you have any questions about this document, please contact me at (206) 553-1755 or by email at lidgard.michael@epa.gov, or you may contact Catherine Gockel of my staff at (206) 553-0325 or by email at gockel.catherine@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Lidgard".

Michael Lidgard, Manager
NPDES Permits Unit

Enclosures

cc: Mr. David Fox, Oregon Department of Fish and Wildlife (*via electronic transmission*)
Ms. Arlene Merems, Oregon Department of Fish and Wildlife (*via electronic transmission*)
Ms. Mer Wiren, Oregon Department of Environmental Quality (*via electronic transmission*)

