

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG130000 for discharges into or adjacent to water in the state.

Issuing Office: Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711

Prepared by: Wastewater Permitting Section
Water Quality Division
(512) 239-4671

Date: October 26, 2005

Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing to issue a general permit authorizing discharges into or adjacent to water in the state from concentrated animal production facilities and certain other aquatic animal production facilities that are engaged in the propagation or rearing of aquatic species through the use of ponds, lakes, fabricated tanks and raceways, or other similar structures. These operations were previously regulated under Texas Administrative Code (TAC) Chapter 321, Subchapter O. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by an individual Texas Pollutant Discharge Elimination System (TPDES) permit. The permit identifies three levels of authorization for eligible facilities, Levels I, II, and III. Level III facilities are larger production facilities subject to TPDES permitting, meeting criteria established in 40 CFR Part 122 Appendix C, "Criteria for Determining a Concentrated Aquatic Animal Production Facility." Level II facilities are smaller production facilities eligible for state-only permit coverage under the Texas Water Code. Level I activities are activities related to the industry that are eligible for state-only coverage under the Texas Water Code.

Executive Director's Recommendation

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire five years from date of issuance following the requirements of 30 TAC § 205.5(a).

Permit Applicability and Coverage

1. Eligibility for authorization under this general permit is divided into three tiers of authorization: Level I, Level II, and Level III Authorizations.
 - a. Level I State-Only Authorization

Operations meeting the descriptions and criteria that qualify for Level I are not required to submit an NOI in order to be authorized under this general permit. Qualifying operations may, however, complete Attachment 1 and utilize this notice as necessary to demonstrate authorization under this permit. The following aquaculture related activities qualify for coverage under Level I:

- (1) Retail bait dealers;
- (2) Discharges resulting from the production of crawfish in conjunction with rice farming;

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- (3) Ponds used as "pay lakes";
- (4) Facilities that exclusively utilize closed ponds;
- (5) Public and commercial aquariums and aquarium supplies;
- (6) Live fish hauling tanks;
- (7) Any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight equal to or less than 20,000 pounds; and
- (8) Facilities which temporarily hold and do not feed aquatic species.

b. Level II State-Only Authorization

Aquatic animal production facilities that meet the following criteria and that do not produce shrimp in the coastal zone; or facilities that only dispose of wastewater via irrigation, are eligible to obtain Level II authorization under the general permit. Submittal of an NOI is required for Level II authorization.

- (1) Facilities that produce cold water aquatic species in ponds, raceways, or other similar structures which:
 - (A) discharge less than 30 days per year;
 - (B) produce less than 20,000 pounds harvest-weight of aquatic species per year; and
 - (C) feed less than 5,000 pounds of food during the calendar month of maximum feeding.
- (2) Produce warm water aquatic species in ponds, raceways, or other similar structures which:
 - (A) discharges less than 30 days per year; or
 - (B) produces less than 100,000 pounds harvest-weight of aquatic species per year. This does not include those facilities that utilize closed ponds that discharge only during periods of excess storm water runoff.
- (2) Dispose of wastewater by land application and do not discharge directly to surface water in the state.

c. Level III TPDES Authorization

Concentrated aquatic animal production facilities that meet or exceed the thresholds described below are eligible to obtain Level III authorization under the general permit. Submittal of an NOI is required for Level III authorization.

- (1) Produces cold water aquatic species in ponds, raceways, or other similar structures which:
 - (A) discharges at least 30 days per year; and either
 - (B) produces more than 20,000 pounds harvest-weight of aquatic species per year; or
 - (C) feeds more than 5,000 pounds of food during the calendar month of maximum feeding.

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- (2) Produces warm water aquatic species in ponds, raceways, or other similar structures that:
 - (A) discharges at least 30 days per year; or
 - (B) produces more than 100,000 pounds harvest-weight of aquatic species per year. This does not include those facilities that utilize closed ponds that discharge only during periods of excess storm water runoff.
 - (3) Shrimp research facility within the coastal zone that:
 - (A) discharges less than 60 days per year;
 - (B) discharges at a daily maximum flow rate of less than 5 million gallons per day; and
 - (C) discharges at a total monthly flow volume less than 12.5 million gallons.
2. The following discharges are not eligible for general permit coverage:
- a. Any commercial facility producing shrimp species within the coastal zone which discharges to surface waters regardless of production or discharge quantity.
 - b. Commercial shrimp aquaculture facilities located within the coastal zone that conduct collaborative research with a shrimp research facility and discharge to surface waters.
 - c. Any aquaculture facility discharging wastewater to a freshwater receiving water may do so under this general permit only if the difference between the discharger's total dissolved solids (TDS) and the freshwater receiving water's TDS is less than 500 mg/L. Any aquaculture facility discharging wastewater to an estuarine or marine receiving water may do so under this general permit only if the difference between the discharger's salinity and the estuarine or marine receiving water's salinity is less than 2 parts per thousand (ppt). If the applicable conditions above are not met, the facility must obtain an individual TPDES permit.
 - d. Any aquaculture facility that utilizes cages or other enclosures placed within public waters for the propagation or rearing of aquatic species with a harvest weight greater than 20,000 pounds.
 - e. Discharges prohibited by 30 TAC, Chapter 311 (relating to Watershed Protection) and 30 TAC, Chapter 213 (relating to the Edwards Aquifer).
 - f. Discharges, including new sources or new dischargers, of the constituent(s) to impaired water bodies for which there is a TMDL implementation plan are not eligible for this general permit unless they are consistent with the approved TMDL and the implementation plan. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this general permit, the discharger shall apply for an individual or other applicable general permit prior to discharging.
 - g. Discharges associated with the processing of aquatic organisms by packing as fresh or frozen product, canning, smoking, salting, drying or otherwise curing, and/or rendering for use as human or animal food are not authorized by this general permit.

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- h. Discharges determined by the executive director that do not maintain existing uses of receiving waters.
 - g. The discharge of domestic sewage into or adjacent to water in the state.
3. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit:
- a. recycling with no resulting discharge into or adjacent to water in the state;
 - b. pumping and hauling to an authorized disposal facility;
 - c. discharge to a POTW;
 - d. underground injection in accordance with 30 TAC Chapter 331; or
 - e. discharge to above ground storage tanks (ASTs) with no resulting discharge into or adjacent to water in the state.

General Permit Effluent Limitations

Numeric effluent limitations are proposed for discharges from Level II and Level III authorized facilities. Numeric limitations are established for total suspended solids, total residual chlorine, and pH that are applicable to all of these dischargers. These dischargers must all monitor and report discharge flow rates, and inorganic suspended solids. Numeric effluent limitations for dissolved oxygen, carbonaceous biochemical oxygen demand, and ammonia-nitrogen are dependent upon the nature of the receiving water, and if the receiving water is a stream, the limitations vary depending on the flow rate of the receiving stream.

1. Level II and Level III authorized facilities that discharge must monitor the effluent at the following frequencies and meet the following numeric effluent limitations.

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Flow (MGD)	Report	Report	Estimate	1/day
Total Suspended Solids	N/A	90 mg/l	Grab	1/month
Inorganic Suspended Solids	N/A	Report (mg/l)	Grab	1/month
Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Total Residual Chlorine	N/A	0.1 mg/l	Grab	1/day ²

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pH (Standard Units)	6.0 minimum	9.0 maximum	Grab	1/week
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- ¹ Monitoring frequency for Level II Authorization shall be once per six months except for flow monitoring which shall be conducted daily.
- ² Monitoring for total residual chlorine is required only when the effluent being discharged has been chlorinated.

2. Level II and Level III authorized facilities discharging to perennial streams with a head water flow greater than 2.5 cubic feet per second (cfs), and to all other water bodies, must monitor the effluent at the following frequencies and meet the following numeric effluent limitations.

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Dissolved Oxygen	5.0 mg/l minimum	N/A	Composite ²	1/week
CBOD ₅	N/A	250 lbs/day	Grab	1/month
Ammonia Nitrogen	N/A	2.0 mg/l	Grab	1/month

- ¹ Monitoring frequency for Level II Authorization shall be once per six months except for flow monitoring which shall be conducted daily.
- ² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if discharge occurs within this time period.

3. Level II and Level III authorized facilities discharging to perennial streams with a head water flow less than 2.5 cfs must monitor the effluent at the following frequencies and meet the following numeric effluent limitations.

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency ¹
Dissolved Oxygen	6.0 mg/l minimum	N/A	Composite ²	1/week
CBOD ₅	N/A	64 lbs/day	Grab	1/month

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Ammonia Nitrogen	N/A	2.0 mg/l	Grab	1/month
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- ¹ Monitoring frequency for Level II Authorization shall be once per six months except for flow monitoring which shall be conducted daily.
- ² Four grab samples shall be collected and analyzed individually. The results of those analyses shall be averaged for reporting purposes. The first sample shall be taken within 30 minutes of initial discharge. Subsequent samples shall be taken at intervals of no less than two hours and no more than four hours apart with a minimum of four samples or until discharge is discontinued. At least one of the four samples shall be collected between 6:00 a.m. and 9:00 a.m. if discharge occurs within this time period.

General Requirements

The following general requirements are applicable to all facilities authorized under this permit.

1. Any new facility required to obtain authorization under this general permit or an individual permit may not commence construction of any waste management unit without first receiving either authorization in accordance with this general permit, an individual TPDES permit, or authorization for the construction of the waste management unit. Any facility currently authorized under this general permit is not required to obtain additional authorization to construct new waste management units.
2. There shall be no discharge of floating solids, no discharge of visible oil, nor shall the discharge cause any nuisance conditions affecting the public along the discharge route. The discharge shall not exhibit foaming of a persistent nature.
3. Drugs, Medications and Chemicals.
 - a. Drugs, medications and chemicals approved by the United States Environmental Protection Agency (EPA) or the United States Food and Drug Administration (FDA) for aquaculture use may be used in water which will be discharged. Treatment shall be limited to those aquatic species and to those purposes for which approval was granted. Treatment shall be used only as necessary, and only as directed on the product label. The water shall be diluted, held for a specific time, or neutralized prior to discharge as directed on the product label or as necessary to comply with 30 TAC Chapter 307 (relating to Texas Surface Water Quality Standards) or as needed to be below the concentration level used for a long-term static treatment, whichever is the lowest concentration. Records of all drugs, medications, and chemicals utilized for treatment shall be maintained on a monthly basis at the facility and shall be readily available for inspection by authorized representatives of the executive director for at least three years. Records shall include treatment concentrations, discharge volumes and dates, and a product label or Material Safety Data Sheet (MSDS) for each drug, medication, or chemical utilized.
 - b. Notification, outlined below, shall be provided to the TCEQ's Storm Water and Pretreatment Team, of the use of any investigational new animal drug (INAD) or any extralabel drug, as defined at 40 CFR 451.3 General Definitions, where such a use may lead to a discharge of the drug. Reporting is

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not required for an INAD or extralabel drug use that has been previously approved by FDA for a different species or disease if the INAD or extralabel use is at or below the approved dosage and involves similar conditions of use.

- (1) The permittee must provide a written report of an INAD's impending use within 7 days of agreeing or signing up to participate in an INAD study. The written report must identify the INAD to be used, method of use, the dosage, and the disease or condition the INAD is intended to treat.
 - (2) For INADs and extralabel drug uses, the permittee must provide an oral report as soon as possible, preferably in advance of use, but no later than 7 days after initiating use of that drug. The oral report must identify the drugs used, method of application, and the reason for using that drug.
 - (3) For INADs and extralabel drug uses, the permittee must provide a written report within 30 days after initiating use of that drug. The written report must identify the drug used and include: the reason for treatment, date(s) and time(s) of the addition (including duration), method of application; and the amount added.
- b. Notification of the use of compounds that have undergone review by the FDA and have been determined to be drugs of low regulatory priority shall be provided using the requirements outlined for INADs and extralabel drugs in Part III. Section B.3.(b).
4. Any discharger authorized under this general permit engaged in the propagation and/or rearing of shrimp which exhibit one or more manifestations of disease, as defined in 31 TAC § 57.111 or § 69.75 shall immediately report the observations to the TCEQ's regional office and to the TCEQ Wastewater Permitting Section (MC-148), and to the Texas Parks and Wildlife Department (TPWD), and shall comply with all the requirements of 31 TAC § 57.114 or § 69.77 as well as other actions deemed appropriate by the TPWD. The TPWD shall be notified immediately of the diagnosis. Any actions which are deemed as necessary by the discharger to prevent transmission of the disease to aquatic life endemic to water in the state shall be implemented as soon as possible. The executive director may additionally require cessation of the discharge of effluent from infected portions of the facility as necessary to protect aquatic life in the receiving stream from potential adverse effects.
 5. Facilities in possession of fish or shellfish shall notify the TCEQ regional office and Wastewater Permitting Section (MC-148) immediately upon a finding that the facility meets the quarantine conditions imposed by TPWD regulations. There shall be no discharge during the quarantine period, except in accordance with an Emergency Plan approved by the TPWD and following approval of the executive director. The executive director shall lift the prohibition on discharge to allow for implementation of the facility's Emergency Plan, in accordance with a permit from the TPWD, following the lifting of the quarantine condition by TPWD.
 6. In the event a facility appears in imminent danger of overflow, flooding, or similar conditions that could either result in the release of exotic species that are regulated by the TPWD or that would result in the violation of a quarantine condition imposed by the commission or TPWD, the permittee may discharge effluent in excess of the permitted flow rates, but only to the extent necessary to comply with an

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Emergency Plan that is approved by the TPWD.

- a. Effluent limitations, discharge flow limitations, and other effluent monitoring requirements of this permit shall be set aside during this activity.
 - b. Dischargers shall notify the appropriate TCEQ regional office at least 48 hours prior to initiating any action under an Emergency Plan in response to an emergency event whenever possible, such as landfall of a hurricane, and shall notify the regional office as soon as practicable following initiation of the Emergency Plan.
 - c. The discharger shall control discharges relating to initiation of the Emergency Plan in the most environmentally sound manner that is practicable. Within 30 days following initiation of the Emergency Plan, the discharger shall submit a written report to the appropriate TCEQ regional office that includes the following information:
 - (1) the cause for initiation of the plan;
 - (2) actions taken to avoid or negate impacts of the discharge to the receiving stream;
 - (3) volumes of wastewater discharged;
 - (4) the dates that discharges occurred; and
 - (5) a general summary of receiving stream conditions at the time of the discharge.
 - d. It is the discharger's responsibility to demonstrate that the discharges were necessary and that conditions required initiation of the Emergency Plan.
7. All facilities authorized under this general permit shall be operated in such a manner as to prevent the creation of a nuisance or a condition of air pollution as mandated by Chapters 341 and 382 of the Texas Health and Safety Code.
 8. All discharges from facilities authorized under this general permit shall comply with 30 TAC § 319.22 (relating to Quality Levels-Inland Waters) or shall comply with 30 TAC § 319.23 (relating to Quality Levels-Tidal Waters).
 9. Dead aquatic species must be removed from fish hauling tanks and properly disposed of. Dead aquatic species may not be discharged into or adjacent to water in the state.

Land Application Requirements

Facilities that dispose of wastewater by irrigation or evaporation are subject to the following requirements.

1. Irrigation practices shall be designed and managed to prevent contamination of ground or surface waters and to prevent the occurrence of nuisance conditions. Tail water control facilities shall be provided, where necessary, to prevent the discharge of any wastewater which might drain from irrigated lands to water in the state and to reduce or minimize ponding or puddling of wastewater on the site. The hydraulic

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loading rate shall be designed based on crop needs in accordance with 30 TAC § 309.20 and applied in a manner to prevent excessive nitrogen application.

2. When applying wastewater to land, a buffer area must be utilized around water wells to prevent the possibility of waste transport to groundwater via the well or well casing. Wastewater may not be applied closer than 100 feet from any private water well (utilized for domestic or irrigation use) and 500 feet from a water supply well.
3. The permittee shall maintain an operating log which records the volume of wastewater used for irrigation each day, the hours the wastewater is applied each day, the actual surface area irrigated each day. The operating log shall be retained on site for a minimum period of five years for inspection by authorized representatives of the TCEQ.
4. No wastewater may be applied within 24 hours after a measured rainfall of 0.5 inches or greater, or to any zone containing standing water.
5. The permittee shall maintain a perennial crop of vegetative cover over the irrigated area. The irrigated fields shall be mowed at least once each year or as necessary to prevent nuisance conditions, and all resulting hay shall be removed from the fields. Fertilizers or other nutrient sources shall be used if required to maintain healthy vegetation on the irrigated fields.
6. The permittee shall provide adequate maintenance of the irrigation facilities to ensure that the facilities are in working condition.
7. Storm water drainage shall be prevented from entering all irrigation holding ponds and from running on to the irrigation tract.
8. Level II facilities authorized under Part II. Section A.2.(b) iii. which dispose of wastewater by irrigation and do not discharge to water in the state shall meet the following criteria:
 - a. The facility shall comply with all irrigation requirements in Part III. Section D.2. of this permit.
 - b. The facility shall provide for adequate storage to prevent overflow from irrigation holding ponds. Ponds used for storage shall be designed based on a rainfall year with a return frequency of at least 25 years (the expected 25 year - one year rainfall, alternately the highest annual rainfall during the last 25 years of record may be used) and a normal monthly distribution, the application rate and cycle, the effluent available on a monthly basis, and evaporation losses in accordance with 30 TAC § 309.20.
 - c. There shall be no discharge of wastewater to water in the state.
9. Level II facilities authorized under Part II. Section A.2.(c) which dispose of wastewater by evaporation shall meet the following criteria:

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- a. Evaporation ponds shall be sized to prohibit overflow. Evaporation ponds shall be sized using:
 - (1) The year with the lowest net evaporation (for a minimum period of record of 25 years) or other appropriate data (i.e. highest precipitation and lowest pan/lake evaporation). The calculation should include the volume of effluent routed to the evaporation pond on a monthly basis for an entire year.
 - (2) The average net evaporation (for the entire period of record) or other appropriate data (i.e. average precipitation and average pan/lake evaporation). When two consecutive average years are reviewed, there should be no accumulation of water in the evaporation system. The calculation should include the volume of effluent routed to the evaporation pond on a monthly basis for an entire year.
- b. Evaporation ponds shall be operated to maintain a minimum freeboard of two feet.
- c. There shall be no discharge of wastewater to water in the state.

Best Management Practices and Specific Requirements for Discharge

The following Best Management Practices (BMPs) are required and shall be utilized to abate the discharge of suspended solids and other pollutants.

1. Dewatering of ponds shall be accomplished by discharge of the uppermost portion of the water column, when possible, to avoid discharge of disturbed bottom sediments.
2. The reuse of pond wastewater should occur to the maximum extent possible. Pond wastewater shall be recirculated or reused wherever appropriate and cost effective.
3. Dead aquatic species shall be routinely removed from ponds and properly disposed of as is required to prevent contamination of waters in the state and to prevent a nuisance or public health hazard.
4. Discharges shall be controlled such that flow rates minimize any increase in turbidity of the receiving stream due to erosion or suspension of sediments.
5. Discharges shall not cause substantial and persistent changes from ambient conditions of turbidity and color.
6. Earthen levees and dikes shall be protected by a vegetative cover to the extent possible or other stabilizing material other than trees and shrubs to prevent erosion. Vegetation, when utilized, shall be maintained at all times through mowing, watering, or other suitable maintenance practices.
7. Removal of accumulated solids from raceways and fabricated tanks must be conducted in a manner to prevent exceedence of the effluent limitations located in Part III. Section A. of this permit.

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Additional Requirements

Additional requirements regarding groundwater protection and waste utilization and disposal have been included in the draft permit. These additional requirements have been based on 30 TAC 335, 309 and the recommendations of the Groundwater Protection Team of the TCEQ.

Addresses

Questions concerning this proposed draft general permit should be sent to:

Storm Water & Pretreatment Team
Wastewater Permitting Section (MC-148)
Water Quality Division
TCEQ
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-4433

Comments regarding this proposed draft general permit should be sent to:

Chief Clerk's Office (MC-105)
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

Supplementary information on this Fact Sheet is organized as follows:

- I. Legal Basis
- II. Regulatory Background
- III. Permit Coverage
- IV. Technology-Based Requirements
- V. Water Quality-Based Requirements
- VI. Best Management Practices
- VII. Monitoring and Reporting
- VIII. Procedures for Final Decision
- IX. Administrative Record

I. Legal Basis

Section 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC, § 26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC, § 26.040 provides the commission with authority to amend rules adopted under TWC § 26.040 prior to amendment of the statute by House Bill (HB) 1542 in

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1997, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the Texas Pollutant Discharge Elimination System (TPDES). The TCEQ and the EPA have signed a Memorandum of Agreement which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas. [A provision of the agreement reached between the two agencies in the transfer of this authority requires the commission to either repeal or replace its authorizations by rule, or amend them, as necessary, to meet the requirements of the Clean Water Act, (CWA).]

CWA, §§ 301, 304, and 401 (33 United States Code (USC), §§ 1311, 1314, and 1341) include provisions which state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability; (2) comply with EPA-approved state water quality standards; and (3) comply with other state requirements adopted under authority retained by states under CWA, § 510, 33 USC, §1370.

Two types of technology-based effluent limitations must be included in the proposed general permit. With regard to conventional pollutants (pH, biological oxygen demand (BOD₅), oil and grease, total suspended solids (TSS), and fecal coliform bacteria) CWA, § 301(b)(2)(E) requires effluent limitations based on “best conventional pollutant control technology” (BCT). With regard to nonconventional and toxic pollutants, CWA, § 301(b)(2)(A), (C), and (D) requires effluent limitations based on “best available technology economically achievable” (BAT), a standard which generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges before March 31, 1989 under CWA, § 301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Such guidelines have not been adopted for this industrial category. Until such guidelines are published, however, CWA, §402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions on the basis of the permitting authority’s best professional judgement.

II. Regulatory Background

The commission previously adopted rules to regulate discharges from aquaculture production facilities, 30 TAC Chapter 321, Subchapter O, effective date of July 28, 1997. Concentrated aquatic animal production facilities, as defined in 40 CFR § 122 Appendix C, are subject to the TPDES permit program. The TAC 321 rule delineated the TCEQ permit program requirements for those facilities that met the criteria in Appendix C, as well as the smaller aquatic animal production facilities and certain aquaculture related activities.

The commission was given authority to issue general permits in place of authorizations by rule through legislation, HB 1542, passed during the 75th legislative session. Further clarification of this general permit authority was provided in subsequent legislation, HB 1283, passed during the 76th legislative session. As a result of this authority, and in accordance with a memorandum of agreement between the EPA and TCEQ

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relating directly to the TPDES permit program, the commission is seeking to issue this general permit and to replace the authorization previously provided in the agency rules.

III. Permit Coverage

This general permit applies to discharges into or adjacent to water in the state from concentrated aquatic animal production facilities as defined by 40 CFR §122 Appendix C, "Criteria for Determining a Concentrated Aquatic Animal Production Facility". The permit additionally authorizes discharges of smaller aquatic animal production facilities and other discharges from aquaculture related activities. The general permit specifies which particular facilities are eligible for authorization by the general permit and which must be authorized by individual permit. New sources or new discharges which discharge constituents of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC Chapter 305 in accordance with 40 CFR § 122.4. All commercial shrimp production facilities located within the defined coastal zone are required to obtain an individual TPDES permit. Shrimp research facilities in the coastal zone that are below defined flow thresholds are eligible for authorization under this general permit. The information developed by research facilities typically provide indirect support to commercial activities, and may be located in conjunction with a commercial facility. In such situations, the facility will be eligible for authorization under the general permit as long as the research is conducted by a separate facility. However, commercial facilities with a research arm do not meet the definition of a research facility, and those located within the coastal zone must obtain an individual TPDES permit.

Shrimp facilities located within the coastal zone are subject to more stringent requirements because the coastal area of Texas has been identified as an area warranting special consideration. The Gulf Coast is one of the most biologically rich and ecologically diverse regions of the state. It is also subject to increasing pressure from population growth and economic activities. Texas has chosen to address these concerns by developing, and obtaining federal approval for the Texas Coastal Management Program (CMP). TCEQ rules require that permits for wastewater discharges to coastal waters be consistent with the CMP. While many inland waters are also sensitive and deserving of special consideration, the commission has determined that impacts to coastal waters from larger shrimp aquaculture facilities are best evaluated through the individual permit process as stated within 30 TAC 305 Subchapter O. In addition, the public has indicated its interest in providing input into applications for these facilities located in the coastal area. Requiring individual permits for larger facilities allows more opportunity for public involvement in the authorization process and further ensures that the goals and policies of the CMP are met.

Facilities that do not discharge waste into or adjacent to water in the state are not required to obtain coverage under this general permit or an individual permit. This includes facilities that dispose of wastewater by recycling, pumping and hauling, discharge to a publicly owned treatment works (POTW), underground injection in accordance with 30 TAC Chapter 331, or discharge to above ground storage tanks.

To obtain authorization to discharge under the proposed general permit, an applicant will meet the following guidelines.

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1. Operations meeting the descriptions and criteria that qualify for Level I are not required to submit a NOI in order to be authorized under this general permit. Qualifying operations may, however, complete Attachment 1 and utilize this notice as necessary to demonstrate authorization under this permit.
2. Unless specifically exempted from the notice requirements under Part II, Section A.1 of the general permit (Level I Authorization), applicants seeking Level II or III authorization to discharge under this general permit must submit a completed NOI on a form approved by the executive director. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, specific description of its location, (including the street address, if applicable, and county), the type of facility and discharge, the name of the receiving water, and the estimated volume of the discharge (expressed as gallons per day).
3. Submission of a NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharges and that the applicant agrees to comply with the conditions of the general permit. Authorization under the terms and conditions of this general permit begins when the applicant is issued a written approval of the NOI. Following review of the NOI, the Executive Director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied.
4. Coverage under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner must submit a Notice of Termination (NOT) and the new owner must submit a NOI. The NOT and NOI must be submitted concurrently no fewer than 10 days before the transfer occurs. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company and would require the new operator to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision, there will be no lapse in authorization for this facility.
5. If the owner or operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information, in a NOI, the correct information must be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. If relevant information provided in the NOI changes (for example, phone number or P.O. Box number) a NOC must be submitted within 14 days of the change.
6. Operators of aquaculture facilities authorized under this general permit that intend or plan to expand facilities, production, number of discharge days, or other factors exist that would affect the level of authorization required under the terms of this permit, must either obtain the necessary and relevant authorization under this general permit, or obtain authorization under a separate individual or general TPDES permit prior to initiating those changes.
7. All NOIs, NOTs, and NOCs shall meet the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications).

IV. Technology-Based Requirements

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The limitations and conditions of the proposed general permit have been developed to comply with the technology-based standards of the Clean Water Act. There are currently no nationally applicable guidelines identifying the BPT, BCT, and BAT standards, and technology-based effluent limitations included in the general permit are based on best professional judgement. The parameters selected for BCT/BAT limits are the primary pollutants of concern for discharges authorized in the proposed general permit.

Technology-based limitations and/or monitoring requirements are included in the proposed general permit for total suspended solids (TSS), inorganic suspended solids (ISS) and pH. Activities related to the harvest of aquatic species in production ponds, such as seining and dewatering, have a potential to suspend pond bottom sludges that are subsequently discharged with pond effluent. An effluent limitation for TSS is established at the BCT level based on best professional judgement at 90 mg/l daily maximum. For reference, this level is consistent with the secondary treatment limitations for oxidation ponds as required in 30 TAC § 309.4. The suspension of inorganic solids can lead to turbidity but may also contribute to the filling of receiving waters. The commission is interested in gathering additional data on these constituents in order to assess whether additional requirements are appropriate for these facilities. Therefore, a monitoring and reporting requirement for ISS was included in the proposed general permit. Based on the results of this data, the commission will determine whether to include additional, future effluent limitations or requirements to control inorganic suspended solids in discharges. An effluent limitation for pH of 6.0 to 9.0 standard units is based on best professional judgement.

V. Water Quality-Based Requirements

1. Water quality-based effluent limitations are included in the proposed permit for dissolved oxygen (DO), carbonaceous biochemical oxygen demand (CBOD₅), and ammonia-nitrogen. Modeling was conducted to determine the CBOD₅, ammonia-nitrogen, and DO effluent limitations necessary to ensure the dissolved oxygen criteria delineated in 30 TAC 307 will be maintained with consideration for the various types of waters that may receive the authorized discharges. The most stringent dissolved oxygen standard of 5.0 mg/l for perennial streams was utilized for modeling purposes. Modeling results determined that an effluent set of 30 mg/l CBOD₅, 2.0 mg/l Ammonia Nitrogen, and 5.0 mg/l DO is protective of discharges into all water bodies except perennial streams with a headwater flow less than 2.5 cubic feet per second (cfs)(Appendix B). For discharges to perennial streams with headwater flows less than 2.5 cfs, modeling was conducted based on a headwater flow of 0.1 cfs (Appendix C). Effluent limitations were then converted to mass limitations utilizing the corresponding effluent flow utilized for modeling. Data from existing permitted facilities was reviewed and it was determined that the limitations included in the draft permit are currently being met by most dischargers (Appendix D). Appendix A of this fact sheet includes the CBOD₅, ammonia nitrogen, and DO effluent limitations that are needed to maintain the required dissolved oxygen of different types of water bodies in the state at various flows.
2. Aquaculture production facilities may use chlorine for periodic small-scale disinfection of raceways, fabricated tanks and equipment. Discharges must not exceed a chlorine concentration of 0.1 mg/l as a grab sample based on the protection of aquatic life. The total residual chlorine limitation will ensure that the effluent is not acutely toxic to aquatic life at the point of discharge.

VI. Monitoring and Reporting

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The proposed general permit has the following criteria established for monitoring based upon 40 CFR §122.44(i) and 30 TAC § 319.

1. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
2. The sampling point to determine compliance with the monitoring conditions of this general permit must be downstream of any treatment unit that is used and prior to commingling with the receiving waters.
3. All samples must be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the Environmental Protection Agency's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the Environmental Protection Agency's, "Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973).
4. Sample containers, holding times, preservation methods, and the analytical methods for the analyses of effluent samples shall meet the requirements in 40 Code of Federal Regulations Part 136 (as amended), or in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater."
5. Results of analyses for determining compliance with numeric effluent limitations shall be recorded on an original discharge monitoring report (DMR)-EPA No. 3320-1 form, a duplicate of the form, or a self-generated form that is comparable. Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit. DMRs shall be submitted on a monthly basis to the TCEQ Enforcement Division (MC 224). The DMR for any given month shall be due by the 20th day of the following month. A DMR must be submitted for each month, even if a discharge did not occur that month.
6. The records of all monitoring activities shall be maintained at the facility and shall be readily available for inspection by authorized representatives of the TCEQ for a minimum period of five years.

Records of monitoring activities shall include:

- a. date, time and place of sample or measurement;
 - b. identity of individual who collected the sample or made the measurement;
 - c. date of analysis;
 - d. identity of the individual and laboratory who performed the analysis;
 - e. the technique or method of analysis; and
 - f. the results of the analysis or measurement.
7. According to 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment, shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by electronic facsimile transmission to the TCEQ regional office within 24 hours of

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becoming aware of the noncompliance. A written report shall be provided by the permittee to the TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report shall contain:

- a. a description of the noncompliance and its cause;
- b. the potential danger to human health or safety, or the environment;
- c. the period of noncompliance, including exact dates and times;
- d. if the noncompliance has not been corrected, the anticipated time it is expected to continue;
- e. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

VIII. Procedures for Final Decision

The memorandum of agreement between the EPA and TCEQ provides that EPA has no more than 90 days to comment, object, or make recommendations to the draft general permit before it is published in the *Texas Register*. According to 30 TAC, § 205, when the draft general permit is proposed, notice must be published, at a minimum, in at least one newspaper of statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Mailed notice must also be provided to the following:

1. the county judge of the county or counties in which the discharges under the general permit could be located;
2. if applicable, state and federal agencies for which notice is required in 40 CFR, §124.10(c);
3. persons on a relevant mailing list kept under 30 TAC, §39.407, relating to Mailing Lists; and
4. any other person the executive director or chief clerk may elect to include.

After notice of the general permit is published in the *Texas Register* and the newspaper, the public will have 30 days to provide public comment on the proposed permit.

Any person, agency, or association may make a request for a public comment hearing on the proposed general permit to the executive director of the TCEQ before the end of the public comment period. A public comment hearing will be granted when the executive director or commission determines, on the basis of requests, that a significant degree of public interest in the draft general permit exists. A public comment hearing is intended for the taking of public comment, and is not a contested case proceeding under the Administrative Procedure Act. The executive director may call and conduct public meetings in response to public comment.

If the executive director calls a public meeting, the commission will give notice of the date, time, and place of the meeting, as required by commission rule. The executive director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The executive director shall make the response available to the public. The general permit will then be filed with the commission to consider final authorization of the permit. The executive director's response to public comment shall be made available to the public and filed with the chief clerk at least ten days before the commission acts on the general permit.

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IX. Administrative Record

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

1. 40 CFR Citations

40 CFR § 122.24
40 CFR § 122, Appendix C
40 CFR § 124
40 CFR § 136

2. Letters/Memoranda/Records of Communication

Public comments were provided to the TCEQ at a public hearing held on the draft proposed authorization by rule on January 29, 1997, and during the public comment period held from January 21 to February 20, 1997. These comments were provided by individuals, stakeholder groups, and other state agencies. The proposed rule was revised at that time in response to the comments received.

Memorandums dated April 24, 2001 and April 27, 2001 from Marshall (Water Quality Assessment Team) to Industrial Permits Team.

Stakeholders meeting held on the proposed draft general permit on June 28, 2001. Comments were provided to the TCEQ by the Texas Aquaculture Association in a letter dated July 16, 2001 and by the Texas Parks & Wildlife department in a letter dated July 9, 2001.

Memorandum dated November 20, 2001 from Tiemann (Water Quality Standards Team) to Industrial Permits Team.

Letter dated April 27, 2004 from T.M. Samocha, Ph.D of the Texas Agricultural Experiment Station Corpus Christi, to the TCEQ's Office of the Chief Clerk.

Letter dated May 2, 2004 from T.M. Samocha, Ph.D of the Texas Agricultural Experiment Station Corpus Christi, to the TCEQ's Office of the Chief Clerk.

Letter dated May 14, 2004 from the Texas Parks and Wildlife to Ms. La Donna Castanuela of the TCEQ's Chief Clerks Office.

Public comments provided to the TCEQ at a public meeting held on May 27, 2004, regarding the proposed draft permit. These comments were provided by individuals, stakeholder groups, and other state agencies.

Letter dated May 27, 2004 from Fred B. Werkenthin, Jr. of Booth, Ahrens & Werkenthin, P.C. to Stephen M. Ligon of the TCEQ.

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Letter dated May 29, 2004 from T.M. Samocha Ph.D. of the Texas Agricultural Experiment Station Corpus Christi, to the TCEQ's Office of the Chief Clerk.

3. Miscellaneous

Quality Criteria for Water (1986), EPA 440/5-86-001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Natural Resource Conservation Commission, December 1996.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10 (21 TexReg 9765, 4/30/97).

"Implementation of the Texas Natural Resource Conservation Commission Standards via Permitting", Texas Natural Resource Conservation Commission, August 1995.

"TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TNRCC Document No. 98-001.000-OWR-WQ, May 1998.

TCEQ Rules.

30 TAC 321, Subchapter O adopted July 28, 1997.

Science Application International Corporation (SAIC) Report "Best Conventional Pollutant Control. Technology and/or Best Available Technology To Support Economically Achievable Effluent Limitations For Shrimp Farm Operations" dated January 20, 1998.

Individual TPDES Permit Nos. 03596, 03660, 03748, 03897, 03819, 03946, and 03940.

30 TAC Chapters 39, 205, 305, 307, 309, 319, 321, 331, and 335.

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Appendix A

Modeling of Potential Discharges into Various Receiving Water Types.

Various scenarios have been modeled to demonstrate the minimum level of treatment required to maintain dissolved oxygen (DO) criteria. Discharges of 0.1 million gallons per day (MGD), 1.0 MGD, and 5.0 MGD have been evaluated for impacts into four types of receiving waters. The receiving waters analyzed were intermittent streams (2.0 mg/l DO criterion), perennial streams with 0.1 cubic feet per second (cfs) headwater (5.0 mg/l DO criterion), tidal rivers (4.0 mg/l DO criterion), and open shallow bays (4.0 mg/l DO criterion). Standard default values for hydraulic coefficients, kinetics, and temperature were used in all models. The results are as follows:

Water Body	Discharge Discharge (MGD)	Treatment Levels CBOD₅/NH₃-N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Intermittent Stream (2.0 mg/l DO criterion)	0.1	30/3/4	4.3
	1.0	30/3/4	2.3
	5.0	30/3/4	1.8
Perennial Stream (5.0 mg/l DO criterion)	0.1	30/3/4	4.8
	1.0	7/2/6	4.9
	5.0	5/2/6	4.8
Tidal River (4.0 mg/l DO criterion)	0.1	30/3/4	4.5
	1.0	30/3/4	4.5
	5.0	30/3/4	4.2
Open Bay (2.0 mg/l DO criterion)	0.1	30/3/4	5.2
	1.0	30/3/4	4.6
	5.0	10/3/4	4.2

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Appendix B

Determination of CBOD₅ Mass Limitations for Discharges to Perennial Streams with a Headwater Flow of Greater than 2.5 Cubic Feet Per Second (cfs).

The following modeling runs have been performed using various discharge volumes to determine the level of treatment necessary to maintain dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). A headwater flow of 2.5 cfs was utilized.

Water Body	Discharge (MGD)	Treatment Levels CBOD ₅ /NH ₃ -N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Perennial Stream	0.59	30/5/4	4.8
(5.0 mg/l DO criterion)	0.68	30/4/4	4.8
	0.70	30/4/5	4.8
	0.79	30/3/4	4.8
	1.00	30/2/5	4.8
	1.05	30/2/6	4.8
	1.08	20/3/4	4.8
	1.17	20/3/5	4.8
	1.56	20/2/5	4.8
	1.69	20/2/6	4.8
	1.96	10/3/5	4.8
	2.25	10/3/6	4.8
	4.02	10/2/6	4.8

The effluent ratio of 30 CBOD₅/ 2 NH₃-N/and 5.0 DO will adequately maintain the dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). The corresponding discharge flow volume of 1.0 million gallons per day (MGD) was utilized to calculate a mass loading limitation for CBOD₅. The conversion factor for concentration to mass based limitations is 8.345.

Daily Maximum CBOD₅: 1.0 MGD x 8.345 x 30 mg/l = 250 lbs/day

Appendix C

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Determination of CBOD₅ Mass Limitations for Discharges to Perennial Streams with a Headwater Flow of Less than 2.5 Cubic Feet Per Second (cfs).

The following modeling runs have been performed using various discharge volumes to determine the level of treatment necessary to maintain dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). A headwater flow of 0.1 cfs was utilized.

Water Body	Discharge (MGD)	Treatment Levels CBOD ₅ /NH ₃ -N/DO (mg/l)	Minimum Dissolved Oxygen (mg/l)
Perennial Stream	0.11	30/3/4	4.8
(5.0 mg/l DO criterion)	0.13	20/3/4	4.8
	0.17	10/3/4	4.8
	0.18	30/2/6	4.8
	0.20	20/3/5	4.8
	0.22	20/3/6	4.8
	0.28	20/2/5	4.8
	0.32	20/2/6	4.8
	0.36	10/3/5	4.8
	0.43	10/3/6	4.8
	0.77	10/2/6	4.8
	0.86	7/2/5	4.8
	1.81	7/2/6	4.8

The effluent ratio of 10 CBOD₅/ 2 NH₃-N/and 6.0 DO will adequately maintain the dissolved oxygen (DO) criteria for perennial streams with a high aquatic life use (5.0 mg/l DO criterion). The corresponding discharge flow volume of 0.77 million gallons per day (MGD) was utilized to calculate a mass loading limitation for CBOD₅. The conversion factor for concentration to mass based limitations is 8.345.

Daily Maximum CBOD₅: 0.77 MGD x 8.345 x 10 mg/l = 64 lbs/day

Appendix D

Quantitative Description of Permitted Discharges

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The following is a description of the discharge from existing permitted aquaculture facilities as described in each facility's Monthly Effluent Report data for the period of January 1998 through December 2000. The "Maximum of Daily Average" values presented in the following table are the maximum values of all daily average values for the reporting period for each parameter.

Permit No.	Outfall No.	Parameter	Maximum of Daily Average (mg/l)
03596	001	Carbonaceous Biochemical Oxygen Demand (5-day)	4.21
		Ammonia Nitrogen	1.59
		Dissolved Oxygen	6.0 minimum
	002	Carbonaceous Biochemical Oxygen Demand (5-day)	7.78
		Ammonia Nitrogen	1.79
		Dissolved Oxygen	6.0 minimum
03660	001	Carbonaceous Biochemical Oxygen Demand (5-day)	8.70
		Ammonia Nitrogen	0.75
	002	Carbonaceous Biochemical Oxygen Demand (5-day)	8.10
		Ammonia Nitrogen	0.6
	003	Carbonaceous Biochemical Oxygen Demand (5-day)	8.10
		Ammonia Nitrogen	0.70
Permit No.	Outfall No.	Parameter	Maximum of Daily Average (mg/l)

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03660 Continued	004	Carbonaceous Biochemical Oxygen Demand (5-day)	8.60
		Ammonia Nitrogen	0.97
	005	Carbonaceous Biochemical Oxygen Demand (5-day)	7.60
		Ammonia Nitrogen	0.76
	006	Carbonaceous Biochemical Oxygen Demand (5-day)	6.10
		Ammonia Nitrogen	0.48
	007	Carbonaceous Biochemical Oxygen Demand (5-day)	7.00
		Ammonia Nitrogen	0.82
	008	Carbonaceous Biochemical Oxygen Demand (5-day)	7.30
		Ammonia Nitrogen	3.70
	009	Carbonaceous Biochemical Oxygen Demand (5-day)	8.40
		Ammonia Nitrogen	0.65
03748	001	Carbonaceous Biochemical Oxygen Demand (5-day)	8.35
		Ammonia Nitrogen	1.34
Permit No.	Outfall No.	Parameter	Maximum of Daily Average (mg/l)

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03819	001	Carbonaceous Biochemical Oxygen Demand (5-day)	6.11
		Ammonia Nitrogen	0.25
		Dissolved Oxygen	4.6 minimum
03897	001	Carbonaceous Biochemical Oxygen Demand (5-day)	5.77
		Ammonia Nitrogen	0.33
03940	001	Biochemical Oxygen Demand (5-day)	25.0
		Ammonia Nitrogen	8.2
03946	001	Carbonaceous Biochemical Oxygen Demand (5-day)	9.20
		Ammonia Nitrogen	0.31
		Dissolved Oxygen	3.1 minimum