



HOUSE BILL 426:

Revise Aquaculture General Permit.

2023-2024 General Assembly

Committee: House Rules, Calendar, and Operations of the **Date:** May 3, 2023
House

Introduced by: Reps. Gillespie, Clampitt, D. Hall, Pless **Prepared by:** Jennifer McGinnis
Analysis of: First Edition Staff Attorney

OVERVIEW: *House Bill 426 would require the Environmental Management Commission (EMC) and the Department of Environmental Quality (Department) to reopen and modify National Pollutant Discharge Elimination System (NPDES) General Permit NCG530000 issued for discharges from seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters that took effect on December 1, 2021.*

CURRENT LAW/ BACKGROUND: Federal law ([40 CFR Part 122.24](#)) requires that concentrated aquatic animal production facilities, are point sources subject to the NPDES permit program. The term "concentrated aquatic animal production" (CAAP) facility means a hatchery, fish farm, or other facility which meets various criteria specified under federal law.

The Department has been delegated authority from the United States Environmental Protection Agency (USEPA) to administer the NPDES program within North Carolina, including permits for CAAP facilities – see Memorandum of Agreement (MOA) for delegation [here](#). Paragraph B. of the MOA "EPA Review of Draft and Proposed Permits, Permit Modifications, and Permit Revocations and Reissuances" states in part:

"All EPA comments and objections must be considered by the State along with any other public comments received on the draft permit."

The MOA further provides:

"EPA acknowledges that the State has no veto authority over acts of the State legislature and, therefore, reserves the right to initiate procedures for withdrawal of the State NPDES program approval in the event that the State legislature enacts any legislation or issues any directive which substantially impairs the State ability to administer the NPDES program or to otherwise maintain compliance with NPDES program requirements."

Also see [40 C.F.R.123.63 Criteria for withdrawal of State programs](#), and [40 C.F.R. 123.64 Procedures for withdrawal of State programs](#).

Withdrawal of a State program by USEPA would result in USEPA's administration and enforcement of the program, to include issuance of permits prepared by USEPA.

The Department reissued [NPDES General Permit NCG530000](#) for discharges from seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters that took effect on December 1, 2021. USEPA submitted comments on a draft version of this permit prior to reissuance concerning inclusion of Best Management Practices, and increased monitoring frequencies for pollutants.

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BILL ANALYSIS: The bill would require the EMC and the Department to reopen and modify NPDES General Permit NCG53000, no later than 180 days after date this bill becomes law, to be substantively identical to the previously issued NPDES general permit governing seafood packing and rinsing, aquatic animal operations, and similarly designated wastewaters¹. The bill provides that, "substantively identical" includes, at a minimum, that species monitoring, discharge characteristic provisions, and best management practice (BMP) requirements are no more stringent than and impose no requirements in addition to those in the previously issued permit.

EFFECTIVE DATE: The bill would be effective when it becomes law and expire when the EMC revises the permit and notifies the Revisor of Statutes that it has done so.

¹ The previously issued permit may be viewed [here](#).