

US EPA ARCHIVE DOCUMENT

propose to discharge storm water into waters of the United States. Pursuant to 40 CFR §§ 122.26(a)(1)(ii) and 122.26(c), dischargers of storm water associated with industrial activity are required to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

4. Canned and Cured Fish and Seafoods, Standard Industrial Classifications (SIC) 2091, and Dog and Cat Food, Standard Industrial Classifications 2047, fall under SIC Major Group 20 and, pursuant to 40 CFR § 122.26(b)(14)(viii), are industrial activities subject to the discharge and permitting requirements under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 308(a) of the Act, 33 U.S.C. § 1318(a), and its implementing regulations authorize EPA to, inter alia, require the owner or operator of any point source to establish records, make reports, or submit other reasonably required information, including individual and general NPDES permit applications.
6. Pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a), and 40 CFR § 122.21, any person who discharges or proposes to discharge storm water associated with industrial activity must submit an application for an NPDES permit 180 days prior to commencing industrial activity.
7. The State of California has an EPA-approved NPDES program, and issues permits, including storm water permits, through its State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards (Regional Boards). Since 1991, the State Board has adopted two successive statewide NPDES general permits for discharges of storm water associated with industrial activity. The permit that is currently effective, General Permit No. CAS000001/Water Quality Order No. 97-03-DWQ (General Permit), was adopted on April 17, 1997.
8. All facility operators seeking coverage under the General Permit must submit a notice of intent to comply (NOI) to the State Board 14 days prior to commencing industrial operations. Industrial storm water discharges that do not submit an NOI must submit an application for an individual NPDES permit. (General Permit, Order Provision E(1), pg. 6 and Attachment 3 to the General Permit).
9. The General Permit requires facility operators to develop and implement a storm water pollution prevention plan (SWPPP) prior to commencing industrial operations. (General Permit, Order Section A(1)(a), pg. 11). The purpose of the SWPPP is to identify sources of industrial storm water pollution and to identify and implement site-specific best management practices (BMPs) to control discharges.
10. The SWPPP must include, inter alia, a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source as well as a site map (or maps) that identifies: (a) facility boundaries and an outline of facility drainage areas, (b) the storm water collection and conveyance system, (c) an outline of impervious areas, (d) locations where materials are directly exposed to precipitation, and (e) areas of

industrial activity. (General Permit, Order Section A(4), pg. 12, 13 and Section A(8), pg. 17

11. Facility operators must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges using best available technology economically achievable (BAT) for toxic pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. (General Permit, Order Section B(3), pg. 4).
12. Facility operators must develop a written monitoring program, and must conduct quarterly visual observations of non-storm water discharges, monthly visual observations of storm water events, and prescribed storm water sampling and analysis. (General Permit, Order Section B(1), (3), (4), and (5), pg. 24-27). In addition, facility operators must submit an annual report to the Regional Board that summarizes visual observations and sampling and provides a comprehensive site compliance evaluation. (General Permit, Order Section B(14), pg. 35). A copy of the written monitoring program as well as records of inspections, steps taken to reduce or prevent discharges, and the annual report must be maintained for at least five years and must be available at the facility for review by facility employees or inspectors. (General Permit, Order Section B(13), pg. 34).
13. The Port of Los Angeles (Port) is a division of the City of Los Angeles, a municipality and a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5). The majority of the property within the Port’s boundaries is owned by the Port and leased to tenants operating in various industrial categories. The remaining properties are privately owned and operated.
14. The Port does not assume responsibility for compliance with storm water requirements at any of its tenant facilities. Therefore, all industrial operators within the Port’s boundaries must independently obtain coverage under the General Permit.
15. Star-Kist Foods, Inc. (Respondent) is a Pennsylvania corporation, licensed to do business in California and is thus a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).
16. Respondent operates a facility within the Port’s boundaries, located at 1054 Ways Street, San Pedro, California (Facility). Respondent is engaged in Canned and Cured Fish and Seafoods at the Facility, an industrial activity classified under SIC 2091.
17. The State Board assigned Waste Discharge Identification (WDID) Number 419I017883 to the Respondent for the Facility on March 11, 2003.
18. Rainfall events at the Facility that exceed 0.1 inches are generally sufficient to generate storm water runoff. Data from the Torrance Municipal Airport Weather Monitoring Station, approximately six miles from the Facility, indicate that there were 90 days with more than 0.1 inches of rainfall at the Facility from November 1, 2002 to April 30, 2007.

19. All catch basins and drains on-site are directed to the stormwater treatment plant. The Stormwater treatment plant treats the first 200,000 gallons of stormwater for each storm event. Flows in excess of 200,000 gallons discharge directly to the Los Angeles Harbor (Harbor) through a single discharge point.
20. All non-stormwater discharges are directed to the industrial wastewater treatment plant under the City of Los Angeles pre-treatment permit W-407845/W-373501. The Facility also has a General NPDES Permit no. CAG994003, which allows discharge of up to 165,000 gallons of retort water up to 3 times per year.
21. The storm water discharged from the Facility contains “pollutants,” including industrial waste, as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), and is storm water discharge associated with industrial activity as defined by EPA regulations in 40 CFR § 122.26(b)(14).
22. The Harbor, including the outer and inner harbors, is a "navigable water" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and a “water of the United States” as defined by EPA regulations in 40 CFR § 122.2.
23. On May 17, 2007, a representative of the EPA inspected the Facility to evaluate Respondent’s compliance with the General Permit. The inspection report is attached and incorporated by reference, and contains evidence that Respondent:
 - a. Failed to implement SWPPP and adequate BMPs at the Facility as required by the General Permit (General Permit, Order Section A Effluent Limit B3 Page 4), including:
 1. Failure to install secondary containment for the fire suppression diesel tank;
 2. Failure to replace the fire suppression diesel tank with a double-walled tank.
 3. Failure to conduct weekly inspections of the fire suppression diesel tank and;
 - b. Failed to develop a complete SWPPP including:
 1. Failure to conduct sampling, or maintain records of sampling activities at all storm water discharge locations, as required by the General Permit (Section B(5)(a), pg. 26, and Section B(13), pg. 34);
 2. Failure to include signature of the responsible party, as required by the General Permit (Section C, pg. 9-10).
24. Based on the foregoing, EPA has determined that by violating General Permit CAS000001, Respondents have violated Section 402 of the Act, 33 U.S.C. § 1342

ORDER FOR COMPLIANCE

Considering the foregoing Findings of Violations and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of Section 308 and 309 of the Act, 33 U.S.C. §§ 1318 and 1319, it is hereby ordered that Respondent comply with the following requirements:

25. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with all terms and conditions of the General Permit.
26. Within 30 days of receipt of this Order, Respondent shall complete interim cleanup and housekeeping measures (Interim Measures) for all of the Facility's areas of industrial activity, including:
 - a. Cleaning up spills;
 - b. Cleaning up accumulated trash and debris throughout the Facility;
 - c. Implementing BMPs to address secondary containment for the fire suppression diesel tank.
27. Within 30 days of receipt of this Order and upon completion of the Interim Measures, Respondent shall submit a Notice of Completion, which shall include a list of the Interim Measures taken, the date each Interim Measure was completed, the person(s) responsible for overseeing completion of each Interim Measure, and copies of documents associated with the completion of the Interim Measures, such as contracts, permits, manifests, and photographs.
28. In performing the Interim Measures, care shall be taken to ensure they do not cause or contribute any runoff to waters of the United States, the municipal storm drains, or the municipal sewer system. Care shall be taken to ensure compliance with all applicable federal, state, and local waste storage and disposal requirements.
29. Within 60 days of the receipt of this Order, Respondent shall submit a revised SWPPP that fully complies with the General Permit. The SWPPP revisions shall include, among all other required elements:
 - a. A facility site map meeting the requirements of Section A.4 of the General Permit;
 - b. Adequate BMPs for the fire suppression diesel tank;
30. Within 60 days of the receipt of this Order, Respondent shall submit the written monitoring program and most recent stormwater sampling analysis.
31. Within 60 days of the receipt of this Order, Respondent shall submit a report to EPA on the costs associated with the development of the revised SWPPP, projected incremental annual costs associated with implementation of the revised SWPPP, and any other costs associated with complying with this Order.
32. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Respondent (as specified by 40 CFR § 122.22 (b)(2)) and shall include the following statement:

"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, I certify that 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 fine and imprisonment for knowing violations.”

33. All submissions requested by this Order shall be mailed to the following address:

U. S. Environmental Protection Agency - Region 9
Clean Water Act Compliance Office WTR-7
75 Hawthorne Street
San Francisco, CA 94105
Attention: Ann Murphy

All telephone inquiries should be made to Ann Murphy, Enforcement Officer, at (415) 972-3640.

34. Respondents shall send a copy of all submissions required under this Order to:

California Regional Water Quality Control Board – Los Angeles Region
Coastal Storm Water Unit
320 West 4th Street, Suite 200
Los Angeles, CA 90013
Attention: Ivar Ridgeway

35. This Order is not a permit under the CWA, and does not waive or modify Respondent’s obligation and responsibility to ascertain and comply with all applicable federal, state, or local laws, regulations, ordinances, permits, or licenses.
36. This Order is not to be deemed an election by EPA to forgo any remedies available to it under the law, including without limitation, any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights and remedies, legal and equitable, available to enforce any violations cited in this Order and to enforce this Order.
37. Requests for information contained within this Order are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a “collection of information” within the meaning of 44 U.S.C. § 3502(3). It is directed to fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1) and 5 CFR § 1320.4(a)(2).
38. Respondent may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 CFR Part 2, Subpart B, regulations to protect confidential business information it receives. If

legally supportable, a claim of business confidentiality may be asserted in the manner specified by 40 CFR § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized under 40 CFR Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.

- 39. Section 309(a), (b), (d) and (g) of the Act, 33 U.S.C. § 1319(a),(b), (d) and (g), provides administrative and/or judicial relief for failure to comply with the CWA. In addition, Section 309(c) of the Act, 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA and for knowingly making false statements.
- 40. This Order shall become effective upon the date of receipt by Respondent.

_____/s/_____
Alexis Strauss,
Director, Water Division

____11/09/07_____
Date