

# Ballast Water Discharge General Permit WPDES WI-0063835-01

Changes to Permit since the Public Notice

## PERMIT CHANGES

Permit Cover Page Revised the effective date to February 1, 2010 to reflect a delay in the permit issuance. February was chosen instead of the beginning of January to avoid the possibility that some ships may still be operating in January before the close of the shipping season for the winter. The permit expiration was also extended so that the permit is good for 5 years.

1.2 Authorized Discharges Clarified that diseases includes VHS.

1.3 EPA Vessel General Permit Since the discussion on the EPA VGP is a permit requirement it was made into an explanatory note under Subsection 1.2, and is part of the discussion in the fact sheet general description. A new sentence states that if there is federal legislation establishing ballast water discharge standards, we would review those standards and decide if a Wisconsin permit would no longer be necessary. Subsection 1.3 is now Exclusions.

1.3.1 Sealed Ballast Tanks The "...vessels that do not discharge any ballast water" was removed from the exemption. Only vessels with permanently sealed ballast tanks are exempt. Previously the permit exclusion applied to any vessel that would not discharge. If a vessel has ballast tanks (other than sealed tanks), it has the potential to carry ballast water and discharge so a permit is required. The Subsection was re-named "Sealed Ballast Tanks" instead of "No Discharge", and was 1.4.1.

1.3.2 Captain of the Port Zone A definition was added. This subsection was 1.4.2.

3.1 Intake Filtration Residuals and Separated Solids Clarified that the prohibition is applicable to both oceangoing and Great Lakes vessels.

3.2 Disposal of Solids Removed from Ballast Tanks or by Treatment Systems The compliance date of January 1, 2012 was removed and replaced with immediately. The EPA VGP prohibits the discharge of sediment in the Great Lakes in Subsection 2.2.3.3 under bullets 3 and 4.

A new note explains the prohibition of the discharge in the permit doesn't imply that the ballast tanks shouldn't be cleaned. Vessels should still clean their ballast tanks as needed, but they may not discharge sediment back into the water.

EPA explains the sediment prohibition in the VGP fact sheet on page 57, "... sediments suspended as a result of ballast tank cleaning, are not eligible for coverage under this permit and must be disposed of in accordance with applicable local, State, and Federal regulations." In Wisconsin, s. NR 102.04(1)(a), Wis. Adm. Code, contains the water quality standard that prohibits objectionable deposits on the bed of a water body. The legal reference in the proposed permit was s. 30.12, Wis. Stats., which contains language prohibiting the deposition of any material upon the bed of any navigable water. Because this citation is applicable to the Department's water regulation program, it was an incorrect to reference this authority for the WPDES permit, so it was deleted. The correct authority to cite is s. NR 102.04(1)(a), Wis. Adm. Code, and this is discussed in the fact sheet under Subsection 3.2.

Clarified in a note that the report of solids disposal under this permit is only applies when it occurs within the jurisdiction of Wisconsin, and is applicable to both oceangoing and Great Lakes vessels.

3.3 Seawater Permit language was clarified with an explanatory note to explain the prohibition on the discharge of seawater. To protect Wisconsin waters from the potential of acute chloride toxicity at the point of ballast water discharge, a chloride limit is necessary. Oceangoing vessels still must comply with any applicable ballast tank exchange or flushing requirement, but if they plan on discharging ballast water in Wisconsin it must comply with the chloride limit. Dilution with freshwater as necessary to meet the limit is allowable. The chloride limit is now also expressed in an equivalent salinity concentration so that vessels measuring the salinity with a refractometer can determine compliance.

4.1 Ballast Water Treatment Requirements Revised the compliance date for new vessels from 2013 to 2012, which is consistent with the IMO schedule and Minnesota's SDS permit for ballast water. The date for existing vessels was extended from January 1, 2012 to January 1, 2014. The 2013 and 2012 dates were initially chosen for Wisconsin's permit because New York has these dates in their 401 state water quality certification. However, we believe 2012 for existing vessels is too aggressive and likely not feasible, especially prior to the date for new vessels. This will advance compliance by two years before the IMO schedule and is believed reasonable.

Revisions to Table 4.1 summarizing the treatment requirements were made to reflect changes to the permit. The use of "Enhanced IMO Standard" was replaced with "Wisconsin Standard" to avoid potential confusion with the IMO. The Extra Enhanced IMO Standards in Table C for new vessels was eliminated (Table C is now for the biocide limits), because we don't believe a treatment system's performance would be designed any differently for new versus existing. The difference between new and existing vessels is the time it may take to install a treatment system. New vessels will be subject to the same discharge standard as existing vessels, but with a faster time frame because it can be designed into a new vessel efficiently. Retrofitting existing vessels may be difficult and the design and installation details could vary from vessel to vessel.

4.1.1 Treatment Feasibility Determination This contains a description of the Department's "Treatment Feasibility Determination", in place of the previous two Subsections 4.1.1 and 4.1.2 that described how the permittee was to request a change in the applicable discharge standard for existing vessels, or request a time extension for new vessels.

4.1.2 Oceangoing Vessel Requirement Requirements for oceangoing vessels was clarified by adding a new subsection.

4.1.3 Great Lakes Vessel Requirements Requirements for Great Lakes vessels was clarified by adding a new subsection. Great Lakes vessels are not subject to the ballast water treatment discharge standards that oceangoing vessels are because they aren't the source of non-indigenous species. However, Great Lakes vessels have the potential to spread aquatic invasive species within the Great Lakes, so they must take preventative measures through the implement of ballast water best management practices, such as avoiding taking on ballast water in areas know to have AIS, and the prohibition from discharging sediment.

4.2 Monitoring Requirements The second sentence regarding operating treatment systems to maximize the destruction or removal of organisms was removed as not enforceable. The inclusion of numerical discharge standards is sufficient. We also don't want to encourage the use of excessive amounts of chemicals to maximize treatment that could result in the discharge of remaining excess chemicals.

4.2.2.1 Effluent Limits for Biocide Treatment Added at the end of the first sentence that biocide usage must also comply with the Department's approval of biocides. A new sentence notes the use of a biocide is subject to the requirements in Subsection 5.8 of the EPA Vessel General Permit.

4.2.2.2 Effluent Limits for Other Biocides Added a new note regarding the need for FIFRA approval from EPA that may be necessary for the new use of a biocide for ballast water treatment.

4.4 Monitoring Plan Clarified that the monitoring plan only applies to vessels that treat their ballast water, so it doesn't apply to Great Lakes Vessels. The time for preparing the monitoring plan was changed from 12 months after permit issue to prior to treating ballast water. The change was necessary because most vessel owners won't know what treatment system they may be installing 12 months after permit issuance. The U.S Coast Guard protocol was singled out because they are expected to set the monitoring standard since they approve the treatment systems. Department review of the plan isn't required and the plan doesn't need to be submitted unless it's requested.

4.5 Ballast Water Treatment System Approval This condition now simply states that Department approval of ballast water treatment systems is necessary. A note explains the Department intends to use a streamlined process and the details are contained in the fact sheet.

4.6 Safety Exemption Language was revised to include documentation of when a safety exemption occurs, which is consistent with the requirements in the EPA Vessel General Permit.

4.7.1 Ballast Log Book A new (e) was added to the log book for the reporting on safety exemptions.

4.7.2 Discharge Monitoring Reports Clarified that a DMR is not required in years prior to when an onboard ballast water treatment system becomes operational. There would be nothing to report on the DMR before treatment is installed.

5 Schedules of Compliance Revised the permit coverage required action in Subsection 5.1 by removing references to the effective date of the EPA Vessel General Permit as unnecessary. A six month time period is allowed for existing vessels to submit a NOI.

Revised Subsection 5.2 to be consistent with the changes made to the discharge standards and effective dates in Section 4.

Replaced the "Engineering Report" and "Plan Approval" actions with one action for "Plans and Specifications" to be consistent with the revised permit language in Subsection 4.5.

Removed compliance schedule 5.6 that allowed for a compliance schedule for discontinuing the surface water discharge of solids removed from ballast tanks, because this isn't consistent with the EPA Vessel General Permit that prohibits this discharge immediately.

6 Standard Requirements Clarified in the first paragraph that the Standard Requirements apply. The permit Standard Requirements are intended for industrial facility permit holders, and some may not make sense or apply to the ballast water permit. Revisions were made that either removed or revised the Standard Requirement as appropriate. Removed the following from the Standard Requirements: 6.2.2 "Unscheduled Bypassing" and 6.2.3 "Scheduled Bypassing" because they relate to sewage collection systems; and the part of 6.2.4 "Proper Operation and Maintenance" that relates to a certified operator.

Two additional standard requirements were included that are applicable to general permit, 6.3 "Continuation of an Expired Permit", and 6.4 "Severability".

## FACT SHEET CHANGES

General Description of Activities Covered Under This GP In the second paragraph a better link to EPA's web site is provided that links to the NPDES page instead of the aquatic invasive species page. Two new paragraphs were added to describe the state's permitting authority. In the third paragraph, the last two sentences were revised to clarify the reason for the permit. The statement that existing practices haven't stopped the introduction of AIS was clarified, because there are other vectors for the introduction of AIS, and even with treatment, AIS could still be introduced into the Great Lakes.

1 Applicability Added the list of what vessels qualify for an exemption with clarifying statements on why or what still needs to be permitted. Added a statement under what circumstances the Wisconsin permit would become unnecessary, and that Wisconsin supports uniform Federal regulations for ballast water.

2 Permit Coverage Permit coverage was revised to reflect the delay in issuance of the permit. A link to EPA's web site for a PDF of the NOI form was provided.

3 Prohibited Discharges Explained in more detail the three prohibited discharges. Subsection 3.2 reference to a compliance schedule with an effective date of no later than 2012 was removed. Inclusion of a compliance schedule wasn't consist with the EPA VGP or the Minnesota ballast water permit that prohibit the discharge of sediment immediately effective with the issuance of the permit. The legal reference for s. 30.12, Wis. Stats., was replaced with s. NR 102.04(1)(a), Wis. Adm. Code (refer to the changes made to Subsection 3.2 of the permit on page 1 for explanation).

4.1 Ballast Water Treatment Requirements Former Subsection 4.1.1 and 4.12 language was revised to reflect elimination of the "off ramp" concept for changing the discharge standards and time extension that placed that responsibility on the permittee. The Department's treatment feasibility review is now described that allows for a change in the treatment standard or change in the effective date.

4.1.2 Oceangoing Vessel Requirement New language clarifies the requirements for oceangoing vessels.

4.1.3 Great Lakes Vessel Requirement New language clarifies that Great Lakes vessels are not subject to ballast water treatment requirements for this permit, but may in the next reissuance. Great Lakes vessels must implement best management practices for ballast water and sediment to reduce the potential threat of spreading AIS and diseases.

4.2.2 Biocides A paragraph was added in the discussion on biocides that the Department isn't endorsing the use of chlorine or other biocides because the limit contains a permit for them. Hazards exist when using biocides.

4.4 Monitoring Plan The language was revised to reflect the change in the permit for when the plan is submitted.

4.5 Ballast Water Treatment System Approval The details of the Department's intended streamlined plan and specification approval process are now contained in the fact sheet instead of the permit. Clarification was provided on the following approval criteria:

- (a) Replaced the word "approved" with "verified" to avoid any misunderstanding that the referenced organizations must approve of the treatment system. The intent is that these organizations with the expertise to review ballast water treatment systems have verified that they work.
- (b) A new criteria to highlight the existing oversight by the U.S. Coast guard that their approval is required for all ballast water management treatment methods.

4.6 Safety Exemption A statement was added that requires documentation of the circumstances of when a safety exemption occurred to be consistent with the EPA VGP.

Section 5 Compliance Schedules Deleted Compliance Schedule 5.6 that allowed time until 2012 to discontinue the surface water discharge of solids removed from ballast tanks. This wasn't consistent with the EPA VGP that prohibits this discharge immediately.

Compliance Schedules 5.1, 5.2, and 5.3 were revised to reflect the permit changes in the date due.

Compliance Schedule 5.3 was revised to simply state that plans and specifications must be approved by the Department. The details on this process are in Subsection 4.5 of the fact sheet.

Attachments The Environment Assessment was removed as an attachment to the fact sheet so that it is a stand alone document. A new attachment for the "Treatment Feasibility Determination Scope of Work" was added, which is referenced in Subsection 4.1.1.

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