

Permit Modification Fact Sheet

General Information

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| Permit Number: | WI-0063835-01-2 General Permit |
| Activity: | Ballast Water Discharge |
| Permittee: | U.S. and international commercial vessels ≥ 50 meters in length and ≥ 8 m ³ ballast capacity |
| Discharge Location: | Ports of call or in transit on commercial shipping routes |
| Receiving Waters: | Lake Michigan, Lake Superior, and other locations with commercial shipping traffic |

General Description of History and Activities Covered Under This GP

Growing concerns and damage to the environment caused by aquatic invasive species (AIS) has raised awareness on the need to regulate ballast water discharge from vessels, which are the major vector for AIS introduction into the Great Lakes. However, the discharges incidental to the normal operation of a vessel, including ballast water, have been exempt through Environmental Protection Agency (EPA) regulations under the Clean Water Act (CWA) since 1973. In 2005, the U.S. District Court for the Northern District of California determined the exemption by EPA exceeded its authority. In accordance with the court-ordered time frame, EPA prepared a National Pollutant Discharge Elimination System (NPDES) general permit to regulate ballast water and 25 other discharges from commercial vessels, which became effective December 19, 2008. The vacatur of the exemption became effective February 6, 2009. For more information on the history of regulating ballast water and other discharges incidental to the normal operation of a vessel, refer to the EPA Vessel General Permit (VGP) and accompanying fact sheet available at the EPA website:

http://cfpub.epa.gov/npdes/home.cfm?program_id=350

The discharge of ballast water is a category of dischargers that EPA now regulates under a NPDES general permit. EPA determined that effluent limit guidelines, a document with an in-depth evaluation of how to regulate a category of dischargers, could not be prepared for vessels in the time allowed by the court. Consequently, the EPA VGP primarily relies on established best management practices and future treatment requirements (numerical technology based effluent limits), and does not include numerical water quality based effluent limits. EPA's VGP requires oceangoing vessels to perform seawater exchange or flushing of the ballast water tanks. This practice has helped reduce but not prevent the introduction of AIS from oceangoing vessels, and the Wisconsin Department of Natural Resources (Department) believes a stringent treatment discharge standard is necessary in addition to exchange or flushing. EPA's revised Vessel General Permit (VGP2) will be issued shortly. Not only will it still not have numerical water quality based effluent limits, but the Department is concerned that it will not require exchange or flushing for all large vessels entering the St. Lawrence Seaway. It is the Department's belief that exchange or flushing, in addition to treatment, is a necessary practice for better protection of the waters of the Great Lakes from AIS.

Wisconsin's general permit was issued under the independent state authority to regulate discharges of pollutants of the waters of the state pursuant to Wis. Stat. §283.31. Michigan and Minnesota have also issued state permits regulating ballast water discharges under independent state authority. The United States Coast Guard (USCG) also requires federal treatment standards for ballast water discharges which include numerical standards, equivalent to the International Maritime Organization standards. The requirement for seawater exchange or flushing sunsets in the USCG rule. Wisconsin strongly supports a federal numerical standard but believes it cannot yet rely on federal protection, and must fulfill its duty to protect the quality of Wisconsin's waters.

Reason for Modification

The Wisconsin general permit contains requirements to minimize to the maximum extent practicable AIS commonly found in ballast water. The general permit is intended to protect Wisconsin waters with the practice of ballast water exchange or flushing, ballast water treatment requirements, prohibitions and Best Management Practices that the Department believes are necessary to protect water quality. The Department was requested by EPA to issue a CWA Section 401 Water Quality Certification (Certification) of the VGP2 that certifies the federal permit will adequately protect Wisconsin's water quality standards. The Department public-noticed its Certification and was challenged by two entities (Conservation Petitioners and Shipper Petitioners). At the same time, Wisconsin's general permit was also challenged (Conservation Petitioners). As a result of a stipulation between the Department and the Shipper Petitioners, and the subsequent Ruling on Motions for Summary Judgment, the Department was ordered to modify the Wisconsin general permit, as explained below.

Permit Modification Changes

4.1 – Added the definition of “VGP2” to the definitions for terms in the permit.

Revised the table by changing the effective date for new oceangoing vessels to December 1, 2013 (or the date specified in VGP2, if that date is different) and the effective date for existing oceangoing vessels to the first dry-docking after January 1, 2016, providing that reasonable efforts will be made to install a treatment system at the earliest practicable date, if treatment systems are approved and commercially available and compatible for a particular vessel before that date.

5.2 – Revised the language for discharge standards for new and existing vessels to reflect the compliance deadlines revised in the table in Section 4.1.

7 – Omitted the specified dates for Discharge Standards and substituted “See Permit” language to refer the permittee to the specific terms in the permit.

Prepared by:

Wisconsin Department of Natural Resources
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