

History

May 22, 1973 - EPA publishes a regulation (40 CFR 122.3(a)) excluding discharges incidental to the normal operation of a vessel from needing NPDES permits.

June 7, 1979 - EPA adds to the exclusion a list of specific discharges considered to be incidental to the normal operation of a vessel. Ballast water is one of the discharges specifically excluded from NPDES permitting.

April 1, 1983 - EPA publishes regulations defining procedures for states to use in CWA 401(a)(1) certifications.

November 29, 1990 - The Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA) becomes law instructing the USCG to develop regulations which protect the Great Lakes from aquatic invasive species.

October 26, 1996 - The National Invasive Species Act (NISA) becomes law to reauthorize and strengthen the NANPCA requirements for the USCG to control ballast water discharges containing invasive species.

January 1999 - Interested parties (including Northwest Environmental Advocates) submitted a petition to EPA asking for repeal of its regulation (40 CFR. 122.3(a)) excluding discharges incidental to the normal operation of vessels from needing an NPDES permit. The main concern of the petition was ballast water because the USCG had made little or no progress implementing NANPCA and NISA.

September 2003 - EPA denied the petition asking for repeal of its regulation excluding discharges incidental to the normal operation of vessels from needing an NPDES permit.

December 2003 - The petitioners and others filed a lawsuit in the U.S. District Court.

March 30, 2005 - The U.S. District Court ruled that the EPA regulation excluding discharges incidental to the normal operation of a vessel from NPDES permitting exceeded the Agency's authority under the CWA.

September 18, 2006 - The U.S. District Court issued an order revoking 40 C.F.R. 122.3(a) as of September 30, 2008 at which time all discharges from vessels would be subject to NPDES permits.

June 17, 2008 - EPA published a FR notice proposing to issue on September 30, 2008 a Vessel General Permit (VGP) for commercial vessels and large recreational vessels and a Recreational General Permit (RGP) for recreational vessels less than 79 feet.

July 23, 2008 - The Ninth Circuit upheld the District Court decision and the September 30, 2008 vacatur date.

July 31, 2008 - The Water Quality Program submitted 20 comments to EPA on the content of the VGP along with a cover letter expressing concern over permit issuance authority issues.

July 29, 2008 - Senate bill S. 2766 (Clean Boating Act of 2008) was signed into law and provides that recreational vessels shall not be subject to the requirement to obtain an NPDES permit. It instead directs EPA to evaluate recreational vessel discharges, develop management practices for appropriate discharges, and the USCG to promulgate regulations requiring those management practices.

July 31, 2008 - Senate bill S. 3298 was signed into law imposing a two-year moratorium during which time neither EPA nor states can require NPDES permits for any vessel less than 79 feet and commercial fishing vessels of any length. It also directs EPA to conduct a study of vessel discharges and issue a report to Congress within 15 months. The moratorium does not apply to ballast water, trash rubbish or garbage, or any other discharge considered by EPA or a state to contribute to violation of a water quality standard or to pose an unacceptable risk to human health or the environment. On July 30, 2010 Congress extended the moratorium to December 18, 2013.

August 31, 2008 - The District Court extended the date of vacatur for 40 CFR. 122.3(a) to December 19, 2008.

December 19, 2008 - EPA issues the VGP and the U.S. District Court extends the exemption for vessel discharges until February 6, 2009. EPA neither withdraws the VGP nor allows the deadlines to be reinterpreted in light of the extension of the vessel discharge exemption.

January 12, 2009 - The Northwest Environmental Advocates petitions the Ninth Circuit Court to require EPA to revise the VGP to require ballast water treatment since not doing so is obviously not protective of national waters. Many other industry and environmental groups are known to have also appealed. Many states are being sued over state-specific VGP conditions. All states which banned graywater discharges have been sued.

February 6, 2009 - EPA reissues the VGP to include 401 certifications and conditions from AK and HI, to fix typographical errors, and to delete conditions from states (IL, NJ, and CA) having second thoughts.

June 8, 2009 - EPA's Vessel eNOI (Notice of Intent) went online 11 days early to allow operators of vessels greater than 300 gross tons or capable of carrying more than 8 cubic meters of ballast water to notify EPA that they are seeking coverage under the VGP. Only these larger vessels are required by the VGP to submit NOIs.

Other commercial vessels \geq 79 feet (and smaller vessels not exempted by Senate bill S. 3298 – see July 31, 2008 above) in length receive coverage under the VGP automatically without having to submit an NOI.

August 28, 2009 - The United States Coast Guard (USCG) proposes in the Federal Register to establish national ballast water discharge standards (BWDS) and amend the process for ballast water management system (BWMS) approval. The deadline for comments is November 27, 2009. The proposed phase-1 BWDS is the same as the current International Maritime Organization (IMO) ballast water standard and the phase-2 BWDS is 1,000 times lower than IMO. USCG will conduct a practicability review prior to implementing phase-2. Crude oil tankers and military vessels are not exempt. The phase-1 BWDS must immediately be met by vessels constructed on or after January 1, 2012 and existing vessels have until 2014 or 2016 (depending on vessel size) to meet the phase-1 BWDS. The phase-2 BWDS must immediately be met by vessels constructed on or after January 1, 2016 and existing vessels have until the first dry dock scheduled after January 1, 2016 or five years after installing a BWMS meeting the phase-1 BWDS (whichever is later and assuming that the original BWMS installation occurred prior to January 1, 2016).

September 19, 2009 - Deadline for submitting an NOI. Vessels greater than 300 gross tons or capable of carrying more than 8 cubic meters of ballast water lose coverage on this day unless EPA has received an NOI.

November 27, 2009 - Deadline for commenting on USCG proposed standards for ballast water and approval process for ballast water treatment.

January 5, 2010 - Congress extends the permitting moratorium for commercial vessels less than 79 feet and all fishing vessels of any length until December 18, 2013.

August 2010 - EPA publishes the Report to Congress: Study of Discharges Incidental to Normal Operation of Commercial Fishing Vessels and Other Non-Recreational Vessels Less Than 79 Feet

October 2010 - EPA announces the beginning of permit development for the next VGP and a public Listening Session on December 15, 2010 to gather information.

February 11, 2011 - EPA and the USCG sign a memorandum of understanding (MOU) on coordination and information sharing for VGP enforcement.

March 8, 2011 - EPA reached a settlement agreement with several environmental groups and the State of Michigan. Under the settlement, EPA is required to propose the next draft VGP by November 30, 2011. The final VGP must be issued by November 30, 2012 in order to allow the regulated community time to become familiar with the new permit. The settlement also required EPA to include concentration-based effluent limits for ballast water organisms in the VGP and give states at least six months for their CWA 401(a)(1) determinations.

June 2, 2011 - The National Academy of Sciences releases its report on Assessing the Relationship between Propagule Pressure and Invasion Risk in Ballast Water.

July 12, 2011 - EPA releases the Efficacy of Ballast Water Treatment Systems: a Report by the EPA Science Advisory Board.

December 8, 2011 - EPA publishes draft vessel general permits for public comment. The permits include a new VGP to replace the existing VGP upon its expiration on November 19, 2013 and a Small Vessel General Permit (sVGP) to cover commercial vessels less than 79 feet along with all fishing vessels when the moratorium expires on December 18, 2013.

December 15, 2011 - EPA requests the State of Washington to grant, deny, or waive 401 certification for the draft VGP and sVGP by June 30, 2012 (in reality July 2, 2012 since June 30 was a Saturday).

February 21, 2012 - End of comment period on the draft VGP and sVGP. The Dept. of Ecology submitted comments on behalf of several state agencies (Dept. of Fish and Wildlife, Dept. of Health, Washington State Ferries, and Puget Sound Partnership). Comments included the inadequacies of the existing electronic reporting system, suggestions on strengthening language concerning invasive species, and concern about notifying the Dept. of Health in a timely manner about excessive bacterial discharges near shellfish beds.

March 23, 2012 – The USCG publishes national standards for discharges of ballast water organisms. These standards are substantially the same as the International Maritime Organization (IMO) ballast water standards.

June 28, 2012 - EPA extends the deadline for VGP and sVGP CWA 401(a)(1) certifications to October 1, 2012.

June 30, 2012 - Original deadline for CWA 401(a)(1) certifications for the VGP and sVGP; effectively 7/2/2012 because of weekend.

August 28, 2012 - The Dept. of Ecology sends EPA a letter certifying in accordance with CWA 401(2)(1) the VGP and sVGP but revoking certification if the issued permits differ from the draft permits which were the documents provided by EPA for review and certification by the state. EPA replied on October 12, 2012 that such revocation of certification had no basis in law or regulation and concluded that the Dept. of Ecology had simply certified the permits.

October 1, 2012 - New deadline for CWA 401(a)(1) certifications of the VGP and sVGP.

October 23, 2012 - The Dept. of Ecology resends the CWA § 401(d) conditions attached to the August 28, 2012 certifications of the VGP and sVGP because the original submittal had incomplete conditions. (EPA had already acknowledged in an October 17, 2012 letter receiving incomplete conditions and accepted the complete versions which were provided electronically to EPA on October 12, 2012 after the error was discovered.) The conditions were developed in cooperation with the state agencies responsible for natural resources or public health and WDFW's Ballast Water Work Group which includes shipping industry and environmental group representatives.

November 18, 2012 - EPA announces the extension of the VGP and sVGP issuance date to March 15, 2013.

November 28, 2012 - The National Marine Fisheries Service (NMFS) issues a biological opinion on the draft VGP and sVGP. The NMFS biological opinion takes into account the newness of the VGP and sVGP and the fact that multiple permit terms may be needed to effectively accomplish regulatory goals. For example, NMFS recommends that EPA review the ballast water, hull fouling, and hull husbandry requirements of States and other nations for potential incorporation in future permits. NMFS also gives EPA the benefit of the doubt that monitoring required under the permits will answer important questions about risk and risk mitigation and that the EPA, USCG, and States will develop and implement an effective inspection and enforcement program. Despite the biological opinion documenting many risks from discharges authorized under the VGP and sVGP, NMFS takes the long view and concludes the permits will not likely result in harm to any listed species or critical habitat.

November 30, 2012 - Original deadline for issuance of the new VGP and sVGP.

December 20, 2012 - Coast Guard and Maritime Transportation Act of 2012 is signed extending to December 18, 2014 the moratorium on requiring NPDES permits for any vessels less than 79 feet and commercial fishing vessels of any length. The moratorium originally became law on July 31, 2008 and has been extended twice.

March 15, 2013 - Extended deadline for issuance of the VGP and sVGP.

March 15, 2013 - EPA announces by e-mail that the VGP and sVGP will not be issued today. EPA adds that they expect to issue the permits "soon," but gave no other details or explanation.

March 28, 2013 - EPA issues the VGP and announces that the sVGP will be issued later in 2013.

April 15, 2013 - USCG announces acceptance of nine ballast water treatment systems as Alternate Management Systems (AMS). AMS acceptance by the USCG is a temporary designation given to a ballast water treatment system approved by a foreign administration. Vessel operators may use an AMS to manage their ballast water discharges while the treatment system undergoes approval testing to Coast Guard standards.

November 1, 2013 - The Fall 2013 VGP Newsletter announces EPA's intention to issue the sVGP early in 2014.

December 19, 2013 - Expiration date of the current VGP and effective date of new VGP.

December 18, 2014 - Expiration of extended moratorium for vessels < 79' from needing coverage under sVGP.

December 19, 2018 - Expiration date of the new VGP.