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**ENVIRONMENTAL PROTECTION
AGENCY**

[EPA-HQ-OW-2009-0828; FRL-9123-6]

**Draft Report to Congress: Study of
Discharges Incidental to Normal
Operation of Commercial Fishing
Vessels and Other Non-Recreational
Vessels Less Than 79 Feet**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice; request for comments
and information.

SUMMARY: This notice provides the public with notification that EPA has prepared a draft *Report to Congress: Study of Discharges Incidental to Normal Operation of Commercial Fishing Vessels and Other Non-Recreational Vessels Less than 79 feet*. EPA conducted the study required by Public Law 110-299 and is publishing this draft report to seek public comment prior to finalizing the report. This draft report presents the information required by Public Law 110-299 on the types of wastewater discharged from commercial fishing vessels and non-recreational vessels less than 79 feet in length. The draft report can be accessed in its entirety at <http://www.epa.gov/npdes/vessels>. This notice is being issued to obtain public comment on the draft report.

DATES: Comments must be received on or before April 7, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OW-2009-0208, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* ow-docket@epa.gov
Attention Docket ID No. OW-2009-0208.

- *Mail:* Water Docket Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW-2009-0208. Please include a total of two copies in addition to the original.

- *Hand Delivery:* EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington,

DC, Attention Docket ID No. OW-2009-0208. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OW-2009-0208. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone

number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

FOR FURTHER INFORMATION CONTACT: Dr. Ryan Albert, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 566-0763; *fax number:* (202) 564-6392; or Robin Danesi, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 564-1846; *fax number:* (202) 564-6392.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Today's notice does not contain or establish any regulatory requirements. Rather, it seeks public comment on EPA's draft Report to Congress on the Study of Discharges Incidental to the Normal Operation of Commercial Fishing Vessels and Other Vessels under 79 feet.

Today's notice will be of interest to the general public, State permitting agencies, other Federal agencies, and owners or operators of commercial fishing vessels or other non-recreational vessels that may have discharges incidental to their normal operation.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

• *Follow directions*—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree; suggest alternatives; and provide reasons for your suggested alternatives.

• Describe any assumptions and provide any technical information and/or data that you used.

• Provide specific examples to illustrate your concerns and suggest alternatives.

• Explain your views as clearly as possible.

• Make sure to submit your comments by the comment period deadline identified.

II. Why Did EPA Conduct the Study?

On July 31, 2008, Public Law (Pub. L.) 110–299 was signed into law. It generally provided a two-year moratorium for non-recreational vessels less than 79 feet in length and all commercial fishing vessels regardless of length, from the requirements of the National Pollutant Discharge Elimination System (NPDES) program to obtain a permit in order to authorize discharges incidental to the normal operation of those vessels. Additionally, Public Law 110–299 directed the United States Environmental Protection Agency (EPA) to study the impacts of discharges incidental to the normal operation of those vessels. Specifically, the law directs the agency to study and evaluate the impacts of:

- (1) Any discharge of effluent from properly functioning marine engines;
 - (2) Any discharge of laundry, shower, and galley sink wastes; and
 - (3) Any other discharge incidental to the normal operation of a vessel.
- Congress mandated that EPA include the following in the study:

(1) Characterizations of the nature, type, and composition of the discharges for:

- a. Representative single vessels; and
- b. Each class of vessels;

(2) Determinations of the volume (including average volumes) of those discharges for:

- a. Representative single vessels;
- b. Each class of vessels;
- (3) A description of the locations (including the more common locations) of the discharges;

(4) Analyses and findings as to the nature and extent of the potential effects of the discharges, including determinations of whether the discharges pose a risk to human health, welfare, or the environment, and the nature of those risks;

(5) Determinations of the benefits to human health, welfare, and the

environment from reducing, eliminating, controlling, or mitigating the discharges;

(6) Analyses of the extent to which the discharges are currently subject to regulation under Federal law or a binding international obligation of the United States.

The law expressly excludes certain discharges from the scope of the study: discharges from vessels owned and operated by the Armed Forces; discharges of sewage from vessels; and discharges of ballast water.

Congress may find the information in this report useful as it considers how best to address discharges incidental to the normal operation of those types of vessels studied. Currently, discharges incidental to the normal operation of certain other types of vessels are regulated under two different regimes in the Clean Water Act. First, incidental discharges from non-recreational, non-fishing vessels larger than 79 feet currently are regulated under the National Pollution Discharge Elimination System (NPDES) permitting program. Second, Congress has chosen to exempt incidental discharges from certain other vessels from NPDES permitting and instead provided for the development and implementation of national standards or management practices as appropriate. In particular, discharges incidental to the normal operation of vessels of the US armed forces are subject to the Uniform National Discharge Standard (UNDS) program established under Section 312 (n) of the Clean Water Act and are exempt from NPDES permitting. Additionally, due to passage of the Clean Boating Act in 2008, discharges incidental to the normal operation of recreational vessels also are exempt from NPDES permitting and will instead have to meet national best management requirements and performance standards established under Section 312 (o) of the Clean Water Act. Finally, in lieu of NPDES permitting, discharges of vessel sewage are subject instead to regulation under sections 312(b)–(m) of the Clean Water Act.

The objective of the draft report is to provide a scientifically informative, policy neutral document to inform Congress about discharge characteristics from the types of vessels studied. As Congress considers the result of this study, they may take into account various Federal regulatory regimes or other options. Congress may use the information in this report to extend the permitting moratorium for these vessels, to establish an alternate regulatory regime, or to do nothing, allowing the moratorium to expire, thereby requiring

NPDES permitting coverage for these 140,000 vessel operators.

III. Overview of the Study's Methods and Findings

EPA estimates there are nearly 140,000 vessels in the United States subject to the permitting moratorium established under Public Law 110–299 (hereinafter referred to as “study vessels”). Approximately one-half of these vessels are commercial fishing vessels involved in activities such as fish catching (*e.g.*, longliner, shrimper, trawler) and charter fishing. The other half is distributed among a variety of vessel classes, including passenger vessels (*e.g.*, water taxis, tour boats, harbor cruise ships, dive boats), utility vessels (*e.g.*, tug/tow boats, research vessels, offshore supply boats), and freight barges.

In order to complete this study, EPA conducted literature reviews, sampled vessel discharges, and used existing data from other EPA data collection efforts and other government data sources to inform its analysis. To select specific vessel classes for sampling, EPA first developed a list of commercial vessel classes. Next, EPA eliminated those vessel classes believed to consist primarily of vessels greater than 79 feet in length, with the exception of commercial fishing vessels. Examples of vessel classes eliminated because of their size included cable laying ships, cruise ships, large ferries, and oil and petroleum tankers. With the exception of fishing vessels, vessels over 79 feet are outside the scope of the Act's permitting moratorium and are generally subject to EPA's existing Vessel General Permit. Next, EPA eliminated vessel classes that have historically been subject to NPDES permitting, including stationary seafood processing vessels and vessels that can be secured to the ocean floor for mineral or oil exploration. After screening out these vessel classes, EPA selected a subset of priority vessel classes to sample including commercial fishing boats, tug/tow boats, water taxis, tour boats, recreational vessels used for nonrecreational purposes, and industrial support boats less than 79 feet in length. EPA selected these vessel classes because they represent a cross section of discharges and have the potential to release a broad range of pollutants.

EPA sampled wastewater discharges and gathered shipboard process information from 61 vessels in nine vessel classes. These classes included fishing vessels, tugboats, water taxis, tour boats, towing/salvage vessels, small research vessels, a fire boat, and a

supply boat. EPA sampled more commercial fishing vessels than any other vessel class due to the large number of fishing vessels subject to the Public Law 110-299 permitting moratorium. Vessels were sampled in 15 separate cities and towns in nine States across multiple geographic regions, including New England, the Mid-Atlantic, the Gulf Coast, the Mississippi River, and Alaska.

EPA sampled a total of nine discharge types from the various vessel classes. These were bilgewater, stern tube packing gland effluent, deck runoff and/or washdown, fish hold effluent (both refrigerated seawater effluent and ice slurry), effluent from the cleaning of fish holds, graywater, propulsion and generator engine effluent, engine dewatering effluent, and firemain effluent.

EPA typically sampled one to four discharge types on each vessel, depending on applicability, accessibility, and logistical considerations. Vessel discharge samples were analyzed for a variety of pollutants, including classical pollutants such as biochemical oxygen demand (BOD₅), total suspended solids (TSS), residual chlorine, and oil and grease; nutrients; total and dissolved metals; volatile and semivolatile organic compounds (VOCs and SVOCs); nonylphenols ethoxylates (used as surfactants in detergents), which are converted to nonylphenols (a class of endocrine-disrupting compounds); and pathogen indicators (*i.e.*, *E. coli*, enterococci, fecal coliforms).

EPA found that some vessel discharges from commercial fishing vessels and commercial vessels less than 79 feet in length may have the potential to impact the aquatic environment and/or human health or welfare. The discharges with the greatest potential to impact surface water quality include deck washdown, fish hold effluent, graywater, bilgewater, and marine engine effluent. Review of available literature also indicates that leachate from antifouling hull coatings used on certain vessels to prevent buildup of organisms, such as barnacles and algae, as well as underwater hull cleaning, also likely impact surface water quality, particularly in areas where a large number of vessels are concentrated in a relatively small water body.

Using the results obtained in this study, EPA used a simple model to evaluate how the nine vessel discharge types EPA sampled may impact water quality in a large, hypothetical harbor. Based on this evaluation, EPA determined that the incidental

discharges from study vessels are not likely to solely cause an exceedance of any National Recommended Water Quality Criteria (NRWQC) to a relatively large water body. This finding suggests that these discharges are unlikely to pose acute or chronic exceedances of the NRWQC across an entire large water body. However, since many of the pollutants present in the vessel discharges were at end-of-pipe concentrations that exceeded an NRWQC, there is the potential for these discharges to contribute a water quality impact on a more localized scale. The study results indicate that total arsenic and dissolved copper are the most significant water quality concerns for the study vessels as a whole, and that they are more likely than other pollutants to contribute to exceedances of water quality criteria. This is especially true if there are other sources of pollutants or the receiving water already has high background concentrations.

IV. Request for Public Input and Comment

In addition to generally requesting comment on all aspects of the draft report, in order to maximize the quality of the report, EPA is specifically requesting comment on the following:

(1) Are there additional existing data or data sources which EPA should incorporate into or analyze in the final report? If so, please provide the specific data sets, papers, and/or citations EPA should consider.

(2) Did EPA accurately summarize how these vessels generate these discharges, and accurately summarize how mariners and fishermen manage the discharges (*e.g.*, fishermen in the Northeast holding bilgewater discharges until they are more than 3 nm from shore)?

(3) Did EPA present the information clearly and concisely? Do you have suggestions to better present these data for both technical and non-technical audiences?

(4) Should EPA consider other approaches to summarizing the data collected for this study, and if so, what specific alternative approaches are suggested?

(5) Are there additional data sources that identify specific environmental impacts that result from discharges incidental to normal operation of commercial fishing vessels and other non-recreational vessels less than 79 feet in length (other than ballast water)? If so, please provide the specific data sets, papers, and/or citations EPA should consider.

(6) Are there any additional existing data sources outlining usage patterns and discharge locations of commercial fishing vessels and other non-recreational vessels less than 79 feet in length that EPA should consider? If so, please provide specific data sets, papers, and/or citations for EPA review.

(7) Has EPA sufficiently analyzed the extent to which the discharges are currently subject to regulation under Federal law or a binding international obligation of the United States? Does the report appropriately convey which discharges and vessel types are already regulated and unregulated?

Dated: March 1, 2010.

Peter A. Silva,

Assistant Administrator for Water.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9124-1]

Science Advisory Board Staff Office; Notification of a Clean Air Scientific Advisory Committee (CASAC) NO_x & SO_x Secondary NAAQS Review Panel Meeting and CASAC Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee NO_x and SO_x Secondary National Ambient Air Quality Standards (NAAQS) Review Panel (CASAC Panel) to peer review EPA's *Policy Assessment for the Review of the Secondary National Ambient Air Quality Standards for NO_x and SO_x: First External Review Draft (March 2010)*. The chartered CASAC will subsequently hold a public teleconference to review and approve the Panel's report.

DATES: The Panel meeting will be held Thursday, April 1, 2010 from 8:30 a.m. to 5 p.m. and Friday, April 2, 2010 from 8:30 a.m. to 2 p.m. (Eastern Time). The chartered CASAC will meet by public teleconference from 10 a.m. to 1 p.m. on Monday, May 3, 2010 (Eastern Time).

ADDRESSES: The April 1 and 2, 2010 public meeting will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone (919) 941-6200. The May 3, 2010 public teleconference will be conducted by telephone only.