

Discharge Permits

EPA Says Technologies Unavailable for States To Set Tighter Ballast Water Limits Than EPA

States are allowed to set standards for ballast water discharges that are tougher than federal rules, but the technology to meet stricter limits than those recently proposed by the Environmental Protection Agency is not available, an EPA official said Jan. 19.

"The Clean Water Act specifically contains clauses that states may apply additional conditions in state waters for any vessel discharges or for any discharges regulated under the Clean Water Act," said Ryan Albert, an environmental scientist with EPA's Water Permitting Division.

Albert spoke at a webinar on the 2013 draft vessel general permit and small vessel general permit that were proposed in November 2011.

EPA proposed a five-year vessel general permit that is consistent with International Maritime Organization standards and with the first phase of proposed U.S. Coast Guard standards. The technology-based standards proposed by EPA are based on the recommendations of the National Academies and the agency's Science Advisory Board.

The Science Advisory Board told EPA that technologies to meet the discharge limits tougher than the IMO standards are unavailable today.

The EPA standards for the first time include technology-based effluent limits to reduce the presence of invasive species and germ-causing bacteria in ballast water, which is carried aboard ships in tanks for stability. The new permit also would continue to regulate 26 other forms of discharges from such vessels (42 ER 2700, 12/2/11).

California has adopted more stringent standards for ballast water discharges.

Albert, who headed EPA's vessel discharge permit team, said California can regulate more stringent discharge standards for pollutants, as it has done in the past. However, he emphasized that the Science Advisory Board told EPA that the technologies to require more stringent standards than the ones established by the IMO are "unavailable today."

The new EPA permit would apply to commercial ships that are at least 79 feet in length, weigh at least 300 gross tons, and have the capability to hold or discharge at least 8 cubic meters of ballast water. Once finalized, the permit would replace the current vessel general permit that expires Dec. 18, 2013. EPA plans to issue the final permit in November.

States Can Adopt Tighter Standards. The permit was issued under Section 402 of the Clean Water Act's National Pollutant Discharge Elimination System program.

According to the National Wildlife Federation, California has adopted ballast water discharge standards that are 1,000 times more stringent than the IMO standards that EPA has proposed for adoption.

Albert said states are allowed under the Clean Water Act to enact more stringent standards than EPA. He said states can also attach additional conditions to the EPA general vessel permit during the water quality certification process authorized under Section 401 of the

Clean Water Act. In fact, he said, EPA has given states until June 30 to finish their certification process.

The U.S. Coast Guard also proposed in August 2009 to have a second phase of discharge limits on vessels that would be 1,000 times more stringent than its phase one limit, which is similar to the IMO standard. The White House Office of Management and Budget is reviewing the Coast Guard's final rule, which it received Nov. 11, 2011.

Phase Two Limits Unachievable. Albert said he would not comment on the Coast Guard's final rule, but emphasized the Science Advisory Board conclusions that the IMO standards are achievable from a technology and testing standpoint. "They basically said that the state of technology does not indicate that treatment systems are currently available to hit 100 or 1,000 times the International Maritime Organization limit," Albert said.

Albert also said the National Academies told EPA that it lacked the data to assess a numerical water quality standard, but told EPA that the IMO standard was a "good start."

Albert said EPA intends to fill those data gaps and hopes to have a numerical water-based effluent limit for ballast waters when it looks to rewrite the vessel general permit, either in 2017 or 2018.

BY AMENA H. SAYID