

Substance Superfund the Net Sale Proceeds it receives through the sale of the 2100 Wyandotte Street Property (\$912,000.00) less the closing costs, taxes owed to Jackson County, Missouri and attorneys fees. The settlement requires Linda Long to pay \$500.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Region VII office located at 901 N. 5th Street, Kansas City, Kansas.

**DATES:** Comments must be submitted on or before July 23, 2007.

**ADDRESSES:** The proposed settlement is available for public inspection at the EPA Region VII office, 901 N. 5th Street, Kansas City, Kansas, Monday through Friday, between the hours of 7 a.m. through 5 p.m. A copy of the proposed settlement may be obtained from the Regional Hearing Clerk, 901 N. 5th Street, Kansas City, Kansas, (913) 551-7567. Comments should reference the PCB Treatment, Inc. Superfund Site, EPA CERCLA Docket No. 07-2005-0394 and should be addressed to Audrey Asher, Senior Assistant Regional Counsel, 901 N. 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Audrey Asher at (913) 551-7255.

Dated: June 13, 2007.

**Cecilia Tapia,**

*Acting Regional Administrator, Region VII.*  
[FR Doc. E7-12048 Filed 6-20-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2007-0483; FRL-8329-7]

### Development of Clean Water Act National Pollutant Discharge Elimination System Permits for Discharges Incidental to the Normal Operation of Vessels

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of intent; request for comments and information.

**SUMMARY:** This notice provides the public with early notification that EPA is in the process of developing National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act (CWA) for the discharge of pollutants incidental to the normal operation of vessels and is seeking comment and relevant information from the public on this matter. Beginning development of NPDES permitting is necessary in light of a lawsuit in the U.S. District Court for the Northern District of California in which the Court found that an EPA regulation, which excludes certain discharges incidental to the normal operation of vessels from NPDES permitting, exceeded the Agency's statutory authority. The Court issued a final order in September 2006 that will vacate (revoke) the regulatory exclusion for discharges incidental to the normal operation of vessels effective September 30, 2008. As of that date, those discharges incidental to the normal operation of vessels previously excluded from NPDES permitting by the regulation will become prohibited unless the discharge is covered under an NPDES permit. The decision potentially implicates all vessels, both commercial and recreational, that have discharges incidental to their normal operation (e.g., deck runoff, graywater, etc). Although the Government is appealing this decision to the U.S. Court of Appeals for the Ninth Circuit, we believe it is prudent to initiate responsive action now rather than await the outcome of that appeal.

Accordingly, today's notice is being issued to make the public aware of this matter and obtain their input, in the form of public comment or relevant information, to further help the Agency in the timely development of an NPDES permitting framework, which has not existed to date for discharges incidental to the normal operation of vessels.

**DATES:** Comments must be received on or before August 6, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2007-0483, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* [ow-docket@epa.gov](mailto:ow-docket@epa.gov). Attention Docket ID No. OW-2007-0483.
- *Mail:* Water Docket Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW-2007-0483. 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-2007-0483. 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-2007-0483. 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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>. For additional instructions on submitting comments, go to Unit I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](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 [www.regulations.gov](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:** John Lishman, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566-1364; fax number: (202) 564-6431; e-mail address: [lishman.john@epa.gov](mailto:lishman.john@epa.gov); or Ruby Cooper, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-0757; fax number: (202) 564-6431; e-mail address: [cooper.ruby@epa.gov](mailto:cooper.ruby@epa.gov).

#### **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 (1) provides the public with early notice of EPA's intent to begin development of NPDES permits under section 402 of the CWA for discharges incidental to the normal operation of vessels; (2) explains the U.S. District Court for the Northern District of California's decision (*Northwest Environmental Advocates et al. v. EPA*, No. CV 03-05760 SI.) that determined such discharges are subject to NPDES permit requirements and describes the status of that litigation; and (3) requests comment and technical input on matters associated with the development of such permits.

Today's notice will be of interest to the general public, state permitting agencies, other Federal agencies, and owners or operators of commercial or recreational vessels that may have discharges incidental to their normal operation. Information available to us from the U.S. Coast Guard (USCG) indicates that in 2005, vessels equipped with ballast water tanks alone accounted for 8,400 ships, the majority of which are foreign-flagged. However, because the Court's decision is not necessarily limited to vessels with ballast water tanks, the universe of potentially affected vessels also could include over 13 million recreational boats, 81,000 commercial fishing vessels, and 53,000 freight and tank barges operating in U.S. waters. These are examples of some of the types of

vessels operating in U.S. waters, and are not intended to be an exhaustive list.

There also is a potentially wide variety of discharges incidental to the normal operation of vessels. For example, under the authority of CWA section 312(n), EPA identified 39 discharges incidental to the normal operation of vessels of the Armed Forces. 40 CFR 1700.4 and 1700.5. Besides ballast water, many of these discharges from military vessels would also be generated as part of the normal operation of non-military vessels; for example, deck runoff and graywater. Although promulgated for purposes of implementing CWA section 312(n), and not the CWA section 402 NPDES program, to the extent those discharges would also be generated by non-military vessels, they would be of interest as the Agency determines what types of discharges incidental to the normal operation of non-military vessels might be implicated by the Court's decision. Further information on the sources and constituents of discharges identified for purposes of CWA section 312(n) can be found in the *Technical Development Document for the Phase I Uniform National Discharge Standards for Vessels of the Armed Forces* (EPA 821-R-99-001), which is available in the docket for today's notice.

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

1. *Submitting CBI.* Do not submit this information to EPA through <http://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.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- 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. Background on Litigation and Regulation of Vessel Discharges Under CWA**

*A. What are some of the principal statutory and regulatory provisions relevant to NPDES permitting and discharges incidental to the normal operation of vessels?*

Section 301(a) of the CWA provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). The CWA defines "discharge of a pollutant" as "(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." 33 U.S.C. 1362(12). A "point source" is a "discernible, confined and discrete conveyance" and includes a "vessel or other floating craft." 33 U.S.C. 1362(14).

The term "pollutant" includes, among other things, "sewage, garbage \* \* \* biological materials \* \* \* and industrial, municipal, and agricultural waste discharged into water."<sup>1</sup> One way a person may discharge a pollutant without violating the section 301 prohibition is to obtain a section 402 NPDES permit. 33 U.S.C. 1342. Under section 402(a), EPA may "issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a)" upon certain conditions required by the Act.

Less than one year after the CWA was enacted, EPA promulgated a regulation that excluded discharges incidental to the normal operation of vessels from

<sup>1</sup> As will be further discussed in Unit II C of the **SUPPLEMENTARY INFORMATION** section of this document, the Act's definition of "pollutant" specifically excludes "sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces." 33 U.S.C. 1362(6).

NPDES permitting. 38 FR 13528, May 22, 1973. After Congress re-authorized and amended the CWA in 1977, EPA invited another round of public comment on the regulation. 43 FR 37078, August 21, 1978. In 1979, EPA promulgated the final revision that established the regulation in its current form. 44 FR 32854, June 7, 1979. That regulation identifies several types of vessel discharges as being subject to NPDES permitting, but specifically excludes discharges incidental to the normal operation of a vessel as follows:

The following discharges do not require NPDES permits:

(a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone or waters of the United States for the purpose of mineral or oil exploration or development. 40 CFR 122.3(a).

Although other subsections of 40 CFR 122.3 and its predecessor were the subject of legal challenges (*See, NRDC v. Costle*, 568 F.2d 1369 (DC Cir. 1977)), the regulatory text relevant to discharges incidental to the normal operation of vessels went unchallenged following its promulgation, and has been in effect ever since.

However, in December 2003, that long-standing EPA regulation became the subject of a lawsuit in the U.S. District Court for the Northern District of California. In March 2005 the Court determined that the exclusion exceeded the agency's authority under the CWA. The Court subsequently issued a final order in that case in September 2006 that will vacate (revoke) the regulatory exclusion in 40 CFR 122.3(a) as of September 30, 2008. As a result, effective September 30, 2008 (and assuming the order is not overturned or altered on appeal), discharges incidental to the normal operation of vessels that are currently excluded from NPDES permitting by that regulation will become subject to CWA section 301's prohibition against discharge, unless covered under an NPDES permit. The CWA authorizes civil and criminal enforcement for violations of that prohibition and also allows for citizen suits against violators.

#### *B. How did the lawsuit come about and what did it involve?*

The lawsuit arose from a January 13, 1999, rulemaking petition submitted to EPA by a number of parties concerned about the effects of ballast water discharges asking the Agency to repeal its regulation at 40 CFR 122.3(a) that excludes certain discharges incidental to the normal operation of vessels from the requirement to obtain an NPDES permit. The petition asserted that vessels are "point sources" requiring NPDES permits for discharges to U.S. waters; that EPA lacks authority to exclude point source discharges from vessels from the NPDES program; that ballast water must be regulated under the NPDES program because it contains invasive plant and animal species as well as other materials of concern (e.g., oil, chipped paint, sediment and toxins in ballast water sediment) and that enactment of CWA section 312(n) (Uniform National Discharge Standards, also known as the "UNDS" program) demonstrated Congress' rejection of the exclusion.

In response to that petition, EPA first prepared a detailed report for public comment, *Aquatic Nuisance Species in Ballast Water Discharges: Issues and Options* (September 10, 2001). *See*, 66 FR 49381, September 27, 2001. After considering the comments received, EPA declined to reopen the exclusion for additional rulemaking and denied the petition on September 2, 2003. EPA explained that ever since enactment of the CWA, EPA has consistently interpreted the Act to provide for NPDES regulation of discharges from *industrial* operations that incidentally occur onboard vessels (such as seafood processing facilities or oil exploration operations at sea) and of discharges overboard of materials such as garbage, but *not* of discharges incidental to the normal operation of a vessel (such as ballast water). EPA further explained that Congress had expressly considered and accepted the Agency's regulation in the years since EPA first promulgated it, and that Congress chose to regulate these discharges incidental to the normal operation of vessels through other statutes. Thus, it was EPA's understanding that Congress had acquiesced to EPA's long-standing interpretation of how to implement the CWA's "vessel or other floating craft" provisions. Denial of the petition did not reflect a dismissal of the significant impacts of aquatic invasive species, but rather that other specific programs had been enacted to specifically address the issue and that the CWA does not currently provide an appropriate

framework for addressing ballast water and other discharges incidental to the normal operation of non-military vessels.

EPA pointed out that when Congress specifically focused on the problem of aquatic nuisance species in ballast water, it did not look to or endorse the NPDES program as the means to address the problem. Instead, as discussed in Units IV A and B of the **SUPPLEMENTARY INFORMATION** section of this document, Congress enacted new statutes in which it directed and authorized the Coast Guard, rather than EPA, to establish a regulatory program for discharges incidental to the normal operation of vessels, including ballast water. Nonindigenous Aquatic Nuisance Prevention and Control Act as amended, 16 U.S.C. 4701 *et seq.*; Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.* Additionally, Congress demonstrated awareness of and made no effort to repeal legislatively EPA's interpretation or to expressly mandate that discharges incidental to the normal operation of vessels be addressed through the NPDES permitting program. EPA reasoned that such Congressional action and inaction in the face of Congressional awareness of the regulatory exclusion confirmed that Congress accepted EPA's interpretation and chose the Coast Guard as the lead agency under other statutes.

In addition, EPA found significant practical and policy reasons not to reopen the longstanding CWA regulatory exclusion, reasoning that there are a number of ongoing activities within the Federal government related to control of invasive species in ballast water, many of which are likely to be more effective and efficient than use of NPDES permits under the CWA. EPA also noted that nothing in the CWA prevents states from independently regulating ballast water discharges under State law, should they choose to do so. *See*, CWA section 510.

After EPA's September 2003 denial of the petition, a number of groups filed a complaint in the U.S. District Court for the Northern District of California. *Northwest Environmental Advocates et al. v. EPA*, No. CV 03-05760 SI. The complaint was brought pursuant to the Administrative Procedure Act, 5 U.S.C. 701 *et seq.* (the "APA"), and set out two Causes of Action. First, the complaint challenged EPA's promulgation of 40 CFR 122.3(a), an action the Agency took in 1973. The Second Cause of Action challenged EPA's September 2003 denial of their petition to repeal the § 122.3(a) exclusion.

In March 2005, the Court granted summary judgment to the plaintiffs: .

The Court DECLARES that EPA's exclusion from NPDES permit requirements for discharges incidental to the normal operation of a vessel at 40 CFR 122.3(a) is in excess of the agency's authority under the Clean Water Act; and ORDERS the EPA to repeal the regulation.

After this ruling, the Court granted motions to intervene by the States of Illinois, New York, Michigan, Minnesota, Pennsylvania, and Wisconsin (on the side of the plaintiffs) and by the Shipping Industry Ballast Water Coalition (on the side of the Government).

Following submission of briefs and oral argument by the original parties and the intervenors, the Court then issued a final order in September 2006 providing that:

The blanket exemption for discharges incidental to the normal operation of a vessel, contained in 40 CFR 122.3(a), shall be vacated as of September 30, 2008.

Because the Government respectfully disagrees with the District Court's decision, on November 16, 2006, we filed an appeal in the U.S. Court of Appeals for the Ninth Circuit. Oral argument is expected in mid-August of 2007.

Additional material related to the rulemaking petition and the lawsuit are contained in the docket for this notice.

*C. Are there NPDES exemptions relevant to vessel discharges unaffected by the Court's ruling?*

Although the Court's final order will vacate the NPDES permit exclusions established by 40 CFR 122.3(a) effective September 30, 2008, the vacatur would not affect vessel discharges that are specifically exempt from NPDES permitting under the CWA itself. For example, the CWA provides in section 502(12)(B) that discharges from vessels (i.e., discharges other than those when the vessel is operating in a capacity other than as a means of transportation) do not constitute the "discharge of a pollutant" when such discharges occur beyond the limit of the three-mile territorial sea.

Another example of exclusions created by the Act itself can be found in section 502(6)(A), which excludes from the Act's definition of "pollutant" sewage from vessels (including graywater in the case of commercial vessels operating on the Great Lakes) and discharges incidental to the normal operation of a vessel of the Armed Forces within the meaning of the CWA § 312. As a result of this statutory exclusion from the definition of "pollutant," both of these discharges would not be subject to CWA section 301's prohibition against discharge

without an NPDES permit. Such discharges instead are subject to other regulatory schemes, as briefly described below, specifically tailored by Congress to address those vessel discharges and that do not use a permitting program for implementation.

CWA sections 312(a)–(m) regulate sewage from vessels (including graywater from those commercial vessels operating on the Great Lakes), utilizing a non-permitting scheme in which EPA sets standards of performance for marine sanitation devices and is responsible for approval of State requests for no discharge zones for vessel sewage. The Coast Guard is responsible for testing and certification of marine sanitation devices, regulations governing their installation, and enforcement.

CWA section 312(n), a provision added to the CWA by the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106, sec. 325(b) to (c)(2)) regulates discharges incidental to the normal operation of a vessel of the Armed Forces. (Vessels of the Armed Forces which are subject to section 312(n) are defined in 40 CFR 1700.3, which excludes some vessels operated by the Department of Defense, such as vessels operated by the Army Corps of Engineers.) That program employs a three-phase process to establish and implement discharge standards for certain discharges from Armed Forces vessels. EPA and the Department of Defense (DOD) first jointly determined the types of vessel discharges requiring control (as well as those which do not). EPA promulgated the regulations making such determinations and identifying those Armed Forces vessel discharges requiring control, and those which do not, in May 1999 at 40 CFR part 1700. For those discharges determined to require control, future joint EPA/DOD rulemakings (Phase 2) will then set standards of performance for control devices or management practices. Following that, DOD will issue regulations (Phase 3) specifying the design, construction, installation, and use of control devices or practices to meet those standards. In addition, EPA is responsible for approval of state-requested no discharge zones for discharges incidental to the normal operation of a vessel under CWA section 312(n)(7).

*D. What kinds of dischargers does the current NPDES permitting program address?*

The main focus of the NPDES permit program has been on the permitting of stationary municipal and non-municipal

(e.g., industrial) dischargers. As of June 30, 2006, the scope and coverage of the NPDES program consisted of approximately 549,900 facilities, entities, and point sources.

With regard to municipal point sources, publicly owned treatment works (POTWs) receive primarily domestic sewage from residential and commercial customers. POTWs will also typically receive and treat wastewater from industrial facilities (indirect dischargers) connected to the POTW sewerage system. The types of pollutants treated by a POTW, therefore, will always include conventional pollutants (BOD5, total suspended solids (TSS), pH, oil and grease, fecal coliform), and will include nonconventional and toxic pollutants depending on the unique characteristics of the commercial and industrial sources discharging to the POTW.

Non-municipal sources, which include industrial and commercial facilities, are unique with respect to the products and processes present at the facility. Unlike municipal sources, the types of raw materials, production processes, treatment technologies utilized, and pollutants discharged at industrial facilities vary widely and are dependent on the type of industry and specific facility characteristics. The operations, however, are generally carried out within a more clearly defined plant area; thus, collection system considerations are generally much less complex than for POTWs. Industrial facilities may have discharges of storm water that may be contaminated through contact with manufacturing activities, or raw material and product storage. Industrial facilities may also have non-process wastewater discharges such as non-contact cooling water.

For more information on how the NPDES program works, see Unit V (Appendix) of the **SUPPLEMENTARY INFORMATION** section of this document.

As the above summary indicates, the main sources traditionally permitted under the NPDES program, with few exceptions, have two basic elements in common: (1) They involve fixed, non-mobile, discharge points that do not frequently transit between receiving waters and (2) necessary treatment equipment and/or best management practices are situated, powered, operated, and maintained as part of a larger overall municipal or industrial facility or operation. Unlike the sources typically permitted under the NPDES program, vessels engaged in the transportation of goods or passengers are highly mobile sources which routinely transit between particular

waterbodies, States, or countries. As further described in Unit IV of the **SUPPLEMENTARY INFORMATION** section of this document, discharges incidental to the normal operation of vessels also can be subject to regulation under a variety of other statutes or international treaties. Additionally, vessels have unique operational constraints related to space and safety. For example, water that washes onboard during storms or rough seas must generally be able to be quickly and efficiently removed in order to protect the lives of crew and passengers and prevent the risk of sinking (and associated environmental harm). Commercial vessels are subject to highly technical and class-specific technical standards in relation to their design, construction and maintenance. *See e.g.*, International Convention for the Safety of Life at Sea ("SOLAS") Chapter II-1, Regulation 3-1; *see also*, 33 CFR part 183 (non-commercial boats). Any pollution control equipment installed on a vessel needs to be capable of reliable and safe operation when exposed to the rigors of the marine and aquatic environment, and will be operated and maintained while at sea by the ship's ordinary crew. Because the Agency has little practical experience in permitting vessels, we are seeking early public input from the public to assist us in the development of such an NPDES permitting program.

### III. Request for Public Input and Comment

#### A. What kind of vessel permitting issues is the Agency seeking public comment on?

We welcome public comment and input on all technical and programmatic issues which the public believes warrant our consideration in developing an NPDES permitting program appropriate to discharges incidental to the normal operation of vessels. We are primarily interested in obtaining *existing* information on discharges incidental to the normal operation of a vessel. This is because, unless invalidated by the Ninth Circuit Court of Appeals, the Northern District of California's order will vacate the current regulatory exclusion at 40 CFR 122.3(a) as of September 30, 2008. Such a time constraint renders impractical creation of substantial new information or extensive new analyses in time to be useful to EPA's efforts to have appropriate permits in place by that date. The Agency is already coordinating with its Federal partners and has initiated work to collect such existing information. Today's notice is

intended to ensure we obtain early public input as well.

While we welcome information and comments on all matters related to NPDES permitting of discharges incidental to the normal operation of vessels, we would especially appreciate public input on the following matters.

(1) *What existing public and private data sources are available for use in identifying, categorizing, and describing the numbers and various types of commercial and recreational vessels currently operating in waters of the U.S. and that may have discharges incidental to their normal operation?* Desirable information under this category would include either citations to databases or documents where such information is available, or, the submission of actual information on vessel numbers and categories together with supporting citations to the underlying source. This information would be useful to the Agency in identifying and categorizing the universe of vessels it may need to address in establishing an NPDES vessel permitting program.

(2) *What is the best way to inform vessel owners of the need to obtain NPDES permit coverage and what existing public and private data sources are available that will assist in identifying vessel owners and operators?* Desirable information under this category would include suggestions on how to best ensure vessel owners are made aware of the upcoming need to obtain NPDES permits for discharges incidental to the normal operation of their vessels. In addition, citations to databases or registries from which the ownership or operational responsibility (and related addresses and points of contact) can be obtained as to vessels operating in U.S. waters would also be helpful. This information would be useful to the Agency in identifying and contacting those who would potentially need to obtain NPDES permit(s). Information or suggestions on how to obtain this information for foreign flagged or owned vessels would be especially useful.

(3) *What existing public and private data sources are available that identify the types of normal operations onboard commercial and recreational vessels that give rise to discharges and the characteristics of such discharges?* Desirable information under this category would include information on the operations or equipment giving rise to discharges incidental to the normal operation of vessels, any operational constraints (e.g., safety concerns) relevant to such discharges, and information on the volumes, discharge rates, and constituents of such

discharges. This information would be useful to the Agency in identifying and characterizing the types of wastestreams and pollutants that may be subject to NPDES permitting.

(4) *What existing information is available as to potential environmental impacts of discharges incidental to the normal operation of vessels?* Desirable information under this category would include information on the nature, significance, and duration of effects that might result from any particular discharge incidental to the normal operation of a vessel, and how such effects are/are not controlled by existing regulatory controls, standards, guidance, or vessel operational practices. Where possible, this should include information as to whether particular categories or types of vessels would be associated with the particular discharge being described. This information would be useful to the Agency in setting priorities as to which discharges incidental to the normal operation of a vessel might be a priority for NPDES permitting as well as being useful in identifying such discharges or vessel types that might be of little or no environmental concern (e.g., de minimis discharges).

(5) *What international, federal, and state limitations or controls already exist on discharges incidental to the normal operation of vessels?* Some illustrative examples of relevant statutes and treaties are briefly summarized in Unit IV of the **SUPPLEMENTARY INFORMATION** section of this document, and additional details or information on these and other relevant regulatory regimes would be welcome. Desirable information under this category also would include descriptions of the types of vessels and/or discharges covered, the geographic scope of such limitations, and the specific nature of these limitations. Suggestions as to how to best integrate any such applicable international or domestic requirements with NPDES permitting considerations would also be desirable. This information would be useful to the Agency as it determines how best to minimize duplication or inconsistencies with other applicable regulatory regimes.

(6) *What existing information is available on the types of pollution control equipment or best management practices currently used (or in active development), and what, if any, are the practical limitations on their use?* Desirable information under this category would include descriptions of the equipment or management practices, the types of incidental discharges they are designed to control, costs,

performance of the equipment or management practices, methods of operation and any limitations on their use with regard to vessel size, treatment volume or flow rates, power requirements, crew training needs, or safety concerns. We are interested in obtaining such information not only with regard to currently available equipment or management practices, but also for state-of-the-art equipment or practices, including those that are still in the prototype or developmental stage. In considering this question, readers are invited to refer to the discussion of NPDES technology-based effluent limitations presented in Unit V.C.1 (Appendix) of the **SUPPLEMENTARY INFORMATION** section of this document. This information would be useful to the Agency as it determines what technology-based limitations might be appropriate for inclusion in NPDES permits.

(7) *What existing information is available as to commercial and recreational vessel traffic patterns?* Desirable information under this category would include descriptions of the nature of voyages (e.g., domestic versus international), volume of vessel traffic by port or waterways, and

distributions of commercial or recreational vessels by State and/or harbors. This information would be useful to the Agency in order to identify the most significant ports or waterbodies for purposes of considering receiving water characteristics and determination of what water quality-based limitations might be appropriate for inclusion in NPDES permits. This information also would be useful as the Agency considers how best to take in to account the varying water quality standards that would apply from State-to-State or potentially between waterbodies within a given State.

**IV. Selected Examples of Other Regulatory Schemes Addressing Discharges Incidental to the Normal Operation of Vessels**

*A. What is the International Convention for the Prevention of Pollution from Ships?*

The United States is a party to the 1973 “International Convention for the Prevention of Pollution from Ships,” as supplemented by a 1978 Protocol. (“MARPOL 73/78”). MARPOL 73/78 addresses a range of operational discharges from vessels, as set out in its six Annexes. The U.S. is a party to

Annexes I, II, III, and V of MARPOL 73/78 and is signatory to, but has not yet ratified, Annex VI (air emissions from ships). The U.S. is not a signatory to Annex IV, which primarily addresses sewage from vessels (sewage from vessels is instead regulated in the U.S. under CWA section 312, as described in Unit II.C of the **SUPPLEMENTARY INFORMATION** section of this document). Annexes I, II, and V of MARPOL 73/78 are implemented in the United States by the Act to Prevent Pollution from Ships (“APPS”), 33 U.S.C. 1901 *et seq.* APPS assigns the Coast Guard, not EPA, primary responsibility to prescribe and enforce regulations implementing those Annexes of MARPOL 73/78. 33 U.S.C. 1903. The United States is also a party to Annex III of MARPOL 73/78, which is implemented in the United States under authority of the Hazardous Materials Transportation Authorization Act of 1994, as amended. 49 U.S.C. 5901 *et seq.* That Annex also is implemented by regulations issued by the Secretary of Transportation.

The following table summarizes the subject matter of the MARPOL 73/78 Annexes to which the U.S. is a party and identifies the principal implementing regulations.

MARPOL 73/78 annex	Subject matter	Principal implementing regulations
I .....	Oil .....	33 CFR parts 151, 155, 156, 157.
II .....	Noxious Liquid Substances (NLS) .....	33 CFR part 151.
III .....	Harmful substances in packaged form .....	46 CFR part 148
		49 CFR part 176
V .....	Garbage .....	33 CFR part 151.

*B. What is the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended by the National Invasive Species Act of 1996, 16 U.S.C. 4701 et seq.?*

In 1990, Congress enacted the Nonindigenous Aquatic Nuisance Prevention and Control Act (“NANPCA”) to focus federal efforts on non-indigenous, aquatic nuisance species, including measures to address their potential introduction via ships’ ballast water discharges. NANPCA’s purposes include prevention of the introduction and dispersal of nonindigenous species into U.S. waters through ballast water management and other requirements and the development and implementation of environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange. 16 U.S.C. 4701(b)(1) and (4). NANPCA authorizes the Coast Guard to develop

regulations for a mandatory ballast water management (BWM) program for the Great Lakes and the Hudson River, and USCG regulations implementing that directive appear in 33 CFR part 151, subpart C.

Those regulations require that vessels carrying ballast water, and that enter the Great Lakes or the Hudson River north of the George Washington Bridge after operating in waters beyond the U.S. Exclusive Economic Zone (EEZ), manage their ballast water by one of three methods: (1) Conduct mid-ocean ballast water exchange; (2) retain their ballast water on board; or (3) use a Coast Guard-approved alternative treatment method. 33 CFR 151.1510(a). The Coast Guard also has issued voluntary guidelines to address the potential introduction of invasive species by vessels entering the Great Lakes that have declared “no ballast on board” (NOBOB). 70 FR 51831, August 31, 2005.

Congress re-authorized and amended NANPCA with the National Invasive Species Act of 1996 (NISA), in which Congress directed the Coast Guard to issue voluntary guidelines to prevent the introduction and spread of non-indigenous species in all other waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks. NISA further provided that if the Coast Guard determined that the rate of effective compliance was inadequate or could not be determined, it would issue regulations converting the voluntary program into mandatory, enforceable requirements. The Coast Guard made such a determination in June 2002, and issued final regulations requiring mandatory ballast water management practices for all vessels equipped with ballast water tanks bound for ports or places within the U.S. or entering U.S. waters. 33 CFR 151, subpart D (69 FR 44952, July 28, 2004). Those regulations do not change the previously described

mandatory ballast water management requirements under part 151 subpart D applicable to vessels entering the Great Lakes.

Subject to certain specified voyage or safety constraints (33 CFR 151.2037), under these subpart D national regulations, vessels with ballast water entering U.S. ports or waters after operating beyond the EEZ must manage their ballast water by mid-ocean exchange, use of a Coast Guard-approved treatment alternative, or retain their ballast on board. 33 CFR 151.2035(b). In addition, those regulations require vessels that operate in U.S. waters and which are equipped with ballast water tanks to undertake other mandatory practices with regard to their ballast water and other potential vessel-related pathways for invasive species introductions, regardless of whether they have operated beyond the EEZ. 33 CFR 151.2035(a).

Additional information on NANPCA/NISA and their implementation can be found by visiting this USCG Web site: <http://www.uscg.mil/hq/g-m/mso/estandards.htm>.

*C. What is the February 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediment?*

Although not yet in force, in February 2004 a treaty ("The International Convention for the Control and Management of Ships' Ballast Water and Sediments") intended to prevent the introduction and spread of harmful aquatic organisms carried by ships' ballast water and sediments was adopted at an international diplomatic conference held at the International Maritime Organization (IMO). The IMO is the United Nations agency responsible for the safety and security of shipping and the prevention of marine pollution from ships. The United States, through a delegation led by the USCG and with active EPA participation, substantially contributed to the development; basic structure, and drafting of that Convention. The Convention will enter into force 12 months after ratification by 30 States, representing 35 per cent of world merchant shipping tonnage (Article 18). As of May 1, 2007, eight countries representing 3.21% of the world tonnage have become contracting parties to the Convention.

In essence, the Convention applies to ships (other than warships) designed or constructed to carry ballast water and which engage in international voyages (Article 3). Ships subject to the Convention will be required to implement a Ballast Water and

Sediment Management Plan and carry out ballast water management according to the Convention (Regulations A-2 and B-1). One of the hallmarks of the Convention is the gradual replacement of ballast water management based on ballast water exchange with an approach that instead mandates ballast water discharges comply with a performance standard limiting the concentrations of organisms that may be discharged (Regulations B-3, B-4, and D-2). In the case of certain recreational or search and rescue craft that carry ballast water, the Convention allows for the use of equivalent compliance measures as determined by guidelines developed under the Convention (Regulation A-5). The Convention also recognizes the right of port States to establish more stringent measures to control the introduction of harmful aquatic organisms and pathogens via ships' ballast water or sediments (Regulation C-1).

In order to allow time for the development and commercial availability of the ballast water treatment equipment necessary for compliance with the Convention's ballast water discharge standard, Regulation B-3 phases in the applicability of that standard over a timeframe of 2009–2016, depending upon a combination of the ship's construction date and its ballast water capacity. In addition, under Regulation D-5 of the Convention, reviews are undertaken to determine whether appropriate technologies are available to timely achieve the discharge standard, with the next such review scheduled to take place at the 56th meeting of the IMO's Marine Environment Protection Committee in July 2007. To date, no ballast water treatment systems have received final approval for use under Regulation D-3 of the Convention. Additional information on the Convention can be found on-line at: <http://www.imo.org/home.asp>.

**V. Appendix: Background on NPDES Permitting Program**

*A. What are the basic kinds of NPDES permits?*

An NPDES permit authorizes the discharge of a specified amount of a pollutant or pollutants into a receiving water under certain conditions. The two basic types of NPDES permits that can be issued are individual and general permits. Typically, dischargers seeking coverage under a general permit are required to submit a notice of intent to be covered by the permit. *See*, 40 CFR 122.28(b)(2).

An individual permit is a permit specifically tailored for an individual discharger. Upon submitting the appropriate application(s), the permitting authority develops a draft permit for public comment for that particular discharger based on the information contained in the permit application (e.g., type of activity, nature of discharge, receiving water quality). Following consideration of public comments, a final permit may then be issued to the discharger for a specific time period (not to exceed 5 years) with a requirement to reapply prior to the expiration date.

A general permit also is subject to public comment and is developed and issued by a permitting authority to cover multiple facilities within a specific category for a specific period of time (not to exceed 5 years), after which they must be re-issued. Under 40 CFR 122.28, general permits may be written to cover categories of point sources having common elements, such as facilities that involve the same or substantially similar types of operations, that discharge the same types of wastes, or that are more appropriately regulated by a general permit.

The use of general permits allows the permitting authority to allocate resources in a more efficient manner and to provide more timely permit coverage. For example, a large number of facilities that have certain elements in common may be covered under a general permit without expending the time and resources necessary to issue an individual permit to each of these facilities. Because of the potentially massive number of vessels, the variety in their waste streams, and the short timeframe under which they could become subject to NPDES permitting under the Court's September 2006 order, use of general permit(s) would appear to be an attractive possibility. However, as described in Unit V.C.1 (Appendix) of the **SUPPLEMENTARY INFORMATION** section of this document, general permits still need to contain technology-based effluent limits, as well as any more stringent limits when necessary to meet State water quality standards or the CWA section 403 ocean discharge guidelines.

*B. Who is responsible for issuing NPDES permits?*

EPA is authorized under section 402(a)(1) of the CWA to issue NPDES permits. Under section 402(b) EPA may approve States, Territories, or Tribes to implement all or parts of the national NPDES permit program. States, Territories, or Tribes applying for such approval may seek the authority to



implement the base program (i.e., issue NPDES permits for industrial and municipal sources), and may seek approval to implement other parts of the national program. If the State entity seeking authorization does not have authority to operate parts of the NPDES program, EPA will implement the other program activities. Currently, 45 states, and the U.S. Virgin Islands, are authorized to administer the base NPDES program.

In general, once a State, Territory, or Tribe is authorized to issue NPDES permits, EPA is prohibited from issuing permits as to those discharges subject to the authorized state program, in which case State-issued NPDES permits would be needed for such discharges within those States' waters. CWA section 402(c). Under the NPDES program, State permitting authorities may charge fees for permit processing. Under CWA section 402(d), EPA generally must be provided with an opportunity to review draft permits prepared by the State, Territory, or Tribe and may formally object to the permit or elements of it that conflict with CWA requirements. If the permitting agency does not address EPA's objection points, EPA assumes the authority to issue the permit directly. Once a State issues a permit, it is enforceable by the authorized State, Territorial, and Federal agencies (including EPA) with legal authority to implement and enforce the permit, and by private citizens (in Federal court).

### C. How are NPDES permit limits established?

When developing effluent limits for a NPDES permit, a permit writer must consider limits based on both the technology available to treat the pollutants (i.e., technology-based effluent limits), and limits that are protective of the designated uses of the receiving water (water quality-based effluent limits). Development of NPDES permits involves complex legal, factual, and technical issues, and the following general overview of some of the relevant considerations is provided for the convenience of readers who may be unfamiliar with NPDES permitting. Additional information can be found on-line at <http://cfpub.epa.gov/npdes/>, and readers interested in more information on how NPDES permits are developed can refer to the NPDES Permit Writers Manual (EPA 833-B-96-003), which is available in the docket for today's notice.

#### 1. Technology-Based Limitations

The intent of a technology-based effluent limitation is to require a minimum level of treatment for

industrial/municipal point sources based on currently available treatment technologies while allowing the discharger to use any available control technique to meet the limitations. The statutory deadlines specified by CWA section 301(b) for compliance with the Act's technology-based effluent limitations have passed (the latest such date was March 31, 1989). Because permit writers do not have the authority to extend the statutory deadlines in an NPDES permit, all applicable technology-based requirements are applied in NPDES permits without the use of a compliance schedule.

There are two general approaches for developing technology-based effluent limits for industrial facilities. The first of these involves using national effluent limitations guidelines (ELGs). The development of legally defensible effluent guidelines is an extremely complex process that requires the preparation of detailed engineering, economic and environmental analyses typically taking many years to accomplish. Because there are no existing ELGs applicable to discharges incidental to the normal operation of vessels, and the Court's order would potentially result in such discharges becoming subject to NPDES permitting as of September 30, 2008, as a practical matter, ELGs to establish technology-based permit limits for discharges incidental to the normal operation of vessels would not be available at that time.

The second approach, used in the absence of ELGs, employs Best Professional Judgment (BPJ) to set technology-based limits on a case-by-case basis. The authority for development of BPJ permit limits is contained in CWA section 402(a)(1), which authorizes EPA to issue permits containing "such conditions as the Administrator determines are necessary to carry out the provisions of this Act" prior to taking the necessary implementing actions, such as the establishment of ELGs. 40 CFR 125.3(c)(2) provides that in setting limitations based on BPJ, the permit writer must include consideration of the factors listed in 40 CFR 125.3(d), which are the same as those required to be considered by EPA in the development of ELGs. For example, under the CWA, non-conventional pollutants (e.g., oil, metals, solvents) are subject to the "best available technology" (BAT) standard, and the factors contained in 40 CFR 125.3(d)(3) for development of such limits on a BPJ basis are:

- The age of equipment and facilities involved.
- The process employed.

- The engineering aspects of the application of various types of control techniques.

- Process changes.
- The cost of achieving such effluent reduction.

- Non-water quality environmental impact, including energy requirements.

#### 2. Water Quality-Based Effluent Limitations

In order to protect the quality of the receiving water, permits also may need to include water quality-based effluent limits (WQBELs) to ensure compliance with applicable State water quality standards. Under section 303(c) of the CWA, States are required to develop water quality standards applicable to all water bodies or segments of water bodies that lie within the State. Once those standards are developed, EPA must approve or disapprove them. Water quality standards under the CWA are composed of three parts:

- *Use classifications*—The first part of a State's water quality standard consists of classification of the water bodies within the State's jurisdiction based on the expected beneficial uses of the particular waterbody. The CWA describes various uses of waters that are considered desirable and should be protected. These uses include public water supply, recreation, and propagation of fish and wildlife. The States are free to designate more specific uses (e.g., cold water aquatic life, agricultural), or to designate uses not mentioned in the CWA, with the exception of waste transport and assimilation, which is not an acceptable designated use (see 40 CFR 131.10(a)).

- *Numeric and/or narrative water quality criteria*—The second part of a State's water quality standard consists of the water quality criteria deemed necessary to support the designated uses of each water body. Sections 303(a)–(c) of the CWA require States to adopt criteria sufficient to protect designated uses for State waters. These criteria may be numeric or narrative. For certain toxic pollutants, the CWA requires States to adopt numeric criteria where they are necessary to protect designated uses. All States have adopted narrative criteria to supplement numeric criteria for toxicants. Narrative criteria are statements that describe the desired water quality goal (e.g., "no toxics in toxic amounts") and can be the basis for limiting specific pollutants for which the State has no numeric criteria, or to limit discharge toxicity where the toxicity cannot be traced to a specific pollutant.

- *Antidegradation policy*—Finally, each State is required to adopt an



antidegradation policy and to identify the methods it will use for implementing that policy. As more specifically discussed in 40 CFR 131.12, antidegradation policies provide three tiers of protection from degradation of water quality, with maintenance of existing instream water uses and the level of water quality necessary to protect existing uses ("Tier 1") being the absolute floor of water quality for all waters of the United States.

Under 40 CFR 122.44(d), all effluents must be characterized by the permitting authority to determine the need for WQBELs. If, after technology-based limits are applied, the permit writer projects that a point source discharger may exceed an applicable criterion, a WQBEL will be included in the permit. WQBELs are designed to protect the quality of the specific water body that receives the discharge by ensuring that the State water quality standards applicable to that particular water body are met. When determining whether WQBELs are needed, the permit writer considers, at a minimum: (1) Existing controls on point and nonpoint sources of pollution; (2) the variability of the pollutant or pollutant parameter in the effluent; (3) the sensitivity of the species to toxicity testing; and (4) where appropriate, the dilution of the effluent in the receiving water (40 CFR 122.44(d)(ii)). EPA-issued NPDES permits are subject to certification by the State under section 401 of the CWA as to compliance with State water quality standards and appropriate requirements of State law, and such permits will incorporate requirements as specified in the State's 401 certification. 40 CFR 124.53 and 124.55. In addition, EPA-issued permits are subject to evaluation for consistency with the enforceable policies of approved state coastal zone management programs under the Coastal Zone Management Act. *See*, 16 U.S.C. 1456(c).

### 3. Other CWA Provisions Relevant to Establishing NPDES Permit Limits

Section 403(a) of the CWA prohibits the issuance of NPDES permits for discharges into the waters of the territorial sea, contiguous zone, or oceans except in compliance with guidelines promulgated under section 403(c) of the Act. Those guidelines are contained in Agency regulations at 40 CFR part 125, subpart M, commonly referred to as the Ocean Discharge Criteria and are used for determining unreasonable degradation of the marine environment, specifying factors to be considered in making that determination. In addition to terms and

limitations based on the Act's technology and water quality standards requirements, NPDES permits that are subject to the Ocean Discharge Criteria will, if necessary, contain conditions or limitations to avoid unreasonable degradation of the marine environment.

Under CWA section 402(g), NPDES permits for the discharge of pollutants into the navigable waters from a vessel or other floating craft are subject to any applicable USCG regulations establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants. NPDES permits that are subject to this requirement will contain a condition that the discharge shall comply with any such applicable USCG regulations. 40 CFR 122.44(p).

Dated: June 14, 2007.

**Benjamin H. Grumbles,**

*Assistant Administrator for Water.*

[FR Doc. E7-12022 Filed 6-20-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8329-8]

### Public Water System Supervision Program Revisions for the State of Michigan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of tentative approval.

**SUMMARY:** Notice is hereby given that the State of Michigan is revising its approved Public Water System Supervision Program. Michigan has formally requested primary enforcement authority for the Radionuclides Rule, which will reduce exposure to radionuclides in drinking water and reduce the risk of cancer; the Arsenic and Clarifications to Compliance and New Source Monitoring (Arsenic) Rule, which requires community and non-transient non-community water systems to comply with the revised arsenic maximum contaminant level of 0.010 mg/L; the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), which improves public health protection through the control of microbial pathogens, specifically *Cryptosporidium*, in drinking water; and, the Filter Backwash Recycling Rule (FBRR), which requires changes to the return of recycle flows to a water treatment plant's process that may otherwise compromise microbial control.

EPA has determined that these revisions are no less stringent than the

corresponding federal regulations. Therefore, EPA intends to approve these program rules. This approval action does not extend to public water systems (PWSs) in Indian Country, as that term is defined in 18 U.S.C. 1151. By approving these rules, EPA does not intend to affect the rights of federally recognized Indian tribes in Michigan, nor does it intend to limit existing rights of the State of Michigan. Any interested party may request a public hearing. A request for a public hearing must be submitted by July 23, 2007, to the Regional Administrator at the EPA Region 5 address shown below. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by July 23, 2007, EPA Region 5 will hold a public hearing. If EPA Region 5 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this determination shall become final and effective on July 23, 2007. Any request for a public hearing shall include the following information: the name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

**ADDRESSES:** All documents relating to this determination are available for inspection at the following offices: Michigan Department of Environmental Quality, Water Bureau, Constitution Hall, 525 W. Allegany Street, 2nd Floor, P.O. Box 30273, Lansing, Michigan 48909-7773, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, and the United States Environmental Protection Agency, Region 5, Ground Water and Drinking Water Branch (WG-15J), 77 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 9 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Kurtz Crooks, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone at (312) 886-0244, or at [crooks.jennifer@epa.gov](mailto:crooks.jennifer@epa.gov).

**Authority:** Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 3006-2 (1996), and 40 CFR part 142 of the