

Uniform National Discharge Standards Underway

Navy & EPA Make Progress Toward Final Rules

REDUCING THE ENVIRONMENTAL impact of liquid discharges from Navy ships has been a priority of Navy's afloat environmental program for decades. In recent months, the Navy and the U.S. Environmental Protection Agency (EPA) have made great strides toward implementing new nationwide standards for these types of discharges. When finalized, these standards will provide consistent, environmentally protective requirements for overboard liquid discharges applicable in waters of the United States and extend seaward out to 12 nautical miles from the coastline.

rizes the EPA to regulate discharges of pollutants into U.S. "navigable waters," which include ocean waters within three nautical miles of the U.S. coastline. Prior to 1996, such "discharges incidental to the normal operations of a vessel," which include bilge water, ballast water, aqueous film-forming foam (AFFF), and firemain system water, were not regulated through federal permits. As a result, individual states were free to impose regulations that would apply only in waters subject to the state's authority. (Normally, states have authority to regulate out to three nautical miles from the

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Development of these standards began in the mid-1990s, when the Navy recognized that these kinds of requirements needed to be uniform and predictable throughout all U.S. waters. This would allow the Navy to acquire, homeport, and operate ships to meet a single set of federal standards rather than a "patchwork quilt" of individual state or territorial discharge requirements.

Federal Regulation of Discharges from Ships

The Federal Water Pollution Control Act of 1972, commonly referred to as the Clean Water Act, autho-

state's coastline.) Without comprehensive federal regulation, the Navy worried that if each U.S. coastal state imposed unique and separate requirements, each ship's commanding officer would need to manage and employ widely disparate protective measures to obey state law depending on the ship's location. The Navy also feared that its acquisition officials would be required to procure shipboard equipment for a constantly shifting and unpredictable landscape of environmental requirements. Required equipment that might be easily installed on a commercial ship could be difficult or impossible to place and operate on a Navy ship with the severe space,



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weight, and operational constraints they have in comparison to their civilian counterparts.

Request for Uniform Discharge Standards

Against this regulatory backdrop, in the early 1990s, the Navy asked the Department of Defense (DoD) and Congress to create a Uniform National Discharge Standards (UNDS) program for liquid discharges under the Clean Water Act. Congress responded via the 1996 National Defense Authorization Act, which amended the Clean Water Act to establish the UNDS program for vessels of the Armed Forces in Section 312(n). This established a three-phase process for implementing discharge regulations applicable to vessels operated by any branch of the Armed Forces, defined for the purpose of UNDS to include U.S. Coast Guard ships.

Phase I requires DoD and EPA to jointly determine all discharges incidental to the normal operations of a vessel of the Armed Forces, and also to determine which discharges require control by a Marine Pollution Control

Device (MPCD)—any equipment or management practice installed or used onboard a vessel to control a discharge—before the discharge may be introduced into the marine environment. This is based on the following seven factors:

1. Nature of the discharge
2. Environmental effects of the discharge
3. Practicability of using a MPCD
4. Operational impact of using a MPCD on a vessel
5. Applicable U.S. law
6. Applicable international standards
7. Costs of MPCD installation and use

For Phases I and II, DoD delegated its responsibility to work with EPA for UNDS rulemaking to the Navy, and in May 1999 Phase I was completed. In all, 39 discharges incidental to the normal operations of U.S. Armed Forces vessels were identified, 25 of which were determined to require control.



The Navy and EPA determined that 25 discharges incidental to the normal operations of U.S. Armed Forces vessels require control under the UNDS program.

Discharges Requiring Control

There were 25 discharges incidental to the normal operations of U.S. Armed Forces vessels that were determined to require control.

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| 1. Aqueous Film-Forming Foam | 10. Elevator Pit Effluent |
| 2. Catapult Water Brake Tank and Post-Launch Retraction Exhaust | 11. Firemain Systems |
| 3. Chain Locker Effluent | 12. Gas Turbine Water Wash |
| 4. Clean Ballast | 13. Graywater |
| 5. Compensated Fuel Ballast | 14. Hull Coating Leachate |
| 6. Controllable Pitch Propeller Hydraulic Fluid | 15. Motor Gasoline Compensating Discharge |
| 7. Deck Runoff | 16. Non-Oily Machinery Wastewater |
| 8. Dirty Ballast | 17. Photographic Laboratory Drains |
| 9. Distillation and Reverse Osmosis Brine | 18. Seawater Cooling Overboard Discharge |
| | 19. Seawater Piping Biofouling Prevention |
| | 20. Small Boat Engine Wet Exhaust |
| | 21. Sonar Dome Discharge |
| | 22. Submarine Bilgewater |

- 23. Surface Vessel Bilgewater/Oil-Water Separator Discharge
- 24. Underwater Ship Husbandry
- 25. Welldeck Discharges

Discharges Not Requiring Control

The following 14 discharges will not require control under the newly-established UNDS program.

- 1. Boiler Blowdown
- 2. Catapult Wet Accumulator Discharge
- 3. Cathodic Protection
- 4. Freshwater Lay-Up
- 5. Mine Countermeasures Equipment Lubrication
- 6. Portable Damage Control Drain Pump Discharge

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7. Portable Damage Control Drain Pump Wet Exhaust
8. Refrigeration and Air Conditioning Condensate
9. Rudder Bearing Lubrication
10. Steam Condensate
11. Stern Tube Seals and Underwater Bearing Lubrication
12. Submarine Acoustic Countermeasures Launcher Discharge
13. Submarine Emergency Diesel Engine Wet Exhaust
14. Submarine Outboard Equipment Grease and External Hydraulics

After completion of UNDS Phase I rulemaking, the Clean Water Act preempts states from adopting or enforcing controls for discharges determined to not require control (14 UNDS discharges) as they apply to vessels of the Armed Forces. A state may also petition the EPA and DoD to review a determination of whether a MPCD is required to control a discharge from a vessel of the Armed Forces where there is new, significant information not considered previously by EPA or DoD.

Phase II requires DoD and EPA to jointly determine MPCD performance standards for those discharges requiring control. A MPCD can be either equipment or a management practice.

Phase III requires DoD to issue regulations specifying requirements for the design, construction, installation, and use of MPCDs for vessels of the Armed Forces. Upon completion of Phase III, existing state or local regulations for the discharges will be nullified, and future state or local regulatory action will be preempted. However, states can petition EPA to establish a no-discharge zone for a specific discharge.

Recent UNDS Progress & the Way Ahead

In late 2013, EPA and the Navy reached final agreement on standards for 11 of the 25 discharges requiring control. The UNDS standards for each of the 11

discharges are modeled as closely as possible, without unnecessarily restricting the ability of Navy ships to carry out their missions, on the corresponding standard in EPA's 2013 Vessel General Permit (VGP). The VGP provides discharge requirements applicable to non-military, non-recreational ships longer than 79 feet. A Notice of Proposed Rulemaking for the first 11 discharges was published in the Federal Register on February 3, 2014 with a 60-day public comment period. One comment was received. Finalization of the 11 discharge standards will take place after adjudication of the comment received and review and consultation with other federal agencies.

After Phase II is complete for these 11 discharges, the Navy will work with DoD to complete Phase III by promulgating implementing regulations for the discharges in 2015. During the Phase II and Phase III work to finalize the 11 discharges, the Navy will continue to work with EPA to finalize Phase II standards for the remaining 14 discharges. Even after Phase III has been completed for all MPCDs covering the 25 UNDS discharges requiring control, efforts to ensure the best, most effective measures to minimize the environmental impact of UNDS discharges waters will not end. The Navy will continue its record of environmental stewardship. In addition, the Clean Water Act requires DoD and EPA to review all UNDS discharge standards every five years. Constant review of standards ensures that the Navy will incorporate new pollution control technologies into the UNDS program when proven effective for Armed Forces shipboard use. ↴

CONTACTS

Mike Pletke
Chief of Naval Operations Energy and Environmental Readiness Division
703-695-5184
DSN: 225-5184
mike.pletke@navy.mil

Katherine Weiler
U.S. Environmental Protection Agency
202-566-1280
weiler.katherine@epa.gov