

Dry Cargo Residue Discharges on the Great Lakes - Background and History

Historically, it has been the practice of bulk carriers on the Great Lakes to wash non-hazardous, non-toxic cargo residues—known as ‘dry cargo residue’ or ‘cargo sweepings’—overboard. In 1987, Congress amended the Act to Prevent Pollution from Ships, adopting Annex V to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto (MARPOL Annex V). Under the interpretive Guidelines to Annex V, dry cargo residues and cargo sweepings are considered to be garbage. The strict application of these guidelines to navigable waterways adopted in 1974 (at 33 CFR 151.66) banned the discharge of dry cargo residues and sweepings in the Great Lakes.

To ease the difficult implementation issues that the application of the Guidelines of MARPOL Annex V would create within the unique legal, environmental, and economic framework of the Great Lakes, the Ninth Coast Guard District implemented an “interim enforcement policy” or “IEP” ([CCGD9INST 16460.1](#)) in 1993. This policy was revised and reissued in 1995 and again in 1997.

In 1998, Congress mandated continuation of the IEP until 2002. In 2000, Congress extended that mandate until September 30, 2004, and required the Coast Guard to study the IEP’s effectiveness. This study is available and can be viewed by using the links under “for more information” near the bottom of this page. Pursuant to the 2000 legislation, in 2003 the Coast Guard initiated the current rulemaking project in order to develop new regulations to replace the IEP.

In 2004 Congress mandated the IEP’s extension until September 30, 2008 and required the Coast Guard to begin environmental analysis that could support the issuance of new regulations to take the place of the IEP. The Coast Guard began that environmental analysis in November 2004. By 2006, it was clear that this analysis would need to be expanded to include the preparation of a full Environmental Impact Statement (EIS).

On March 9, 2006 the Coast Guard published a Federal Register [notice of intent to prepare an EIS](#) in support of the current rulemaking. In this “scoping notice,” the Coast Guard asked for public input to determine the scope of the issues to be contained in the EIS and announced the availability of the Study of Incidental Dry Cargo Residue Discharge in the Great Lakes. This study can be viewed online at [www.Regulations.gov](#). Once in the site, proceed to simple search, and under docket number, enter USCG-2004-19621. On June 8, 2006, the Coast Guard issued a Federal Register notice to invite the public to attend a public scoping meeting for the EIS, and proposing a plan to conduct sampling in the Great Lakes.

On May 23, 2008 the Coast Guard issued a Draft Environmental Impact Statement (DEIS) and an associated [Notice of Proposed Rulemaking \(NPRM\)](#) in the Federal Register (73 Fed. Reg. 30014). In this notice, the Coast Guard proposed amending its regulations to adopt the IEP, modifying it to include additional environmentally sensitive areas where discharges would be prohibited. This proposal would allow the continuation of the sweeping of non-toxic, non-hazardous dry bulk cargo residues such as limestone, iron ore and coal in limited areas of the Great Lakes. The rule would also require bulk dry cargo carriers to keep records of and report loading, unloading and sweepings. Lastly, it would encourage carriers to use control measures to reduce the amount of dry cargo residue entering the waters of the Great Lakes. The public comment period closed on July 22, 2008.

On August 22, 2008 the EPA announced the availability of the Coast Guards [Final Environmental Impact Statement \(EIS\)](#) evaluating the impacts of our new regulation for dry cargo residue discharges. Based on the Final EIS, the Coast Guard concluded that continued discharges of DCR will have only a minor indirect impact on most areas within the Great Lakes environment. In consideration of the information contained in the Final EIS, the Coast Guard signed its [Record of Decision](#) on September 23, 2008.

On September 29, 2008 the Coast Guard released its [Interim Rule](#) regulating the discharge of dry cargo residue into certain areas of the Great Lakes by self-propelled vessels and by any barge that is part of an integrated tug and barge unit. The new rule takes effect September 29, 2008. The interim rule adds new recordkeeping and reporting requirements and encourages carriers to adopt voluntary control measures

for reducing discharges. Discharges are now prohibited in certain special areas where, previously, they were allowed. Dry cargo carriers are required to keep records of each loading and unloading operation using the [Bulk Dry Cargo Residue Reporting Form \(CG-33\)](#). In addition, these records must be provided to the Coast Guard on a quarterly basis, no later than the 15th day of January, April, July and October. The initial reports for this regulation are due January 15, 2009.

Documents related to this rulemaking can be viewed online at <http://www.regulations.gov>. Once in the site, proceed to simple search, and under docket number, enter USCG-2004-19621.