

Appendix T
Comments Received on Draft Environmental
Impact Statement

Issued in Renton, Washington, on May 16, 2008.

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Manager, Transport Airplane Directorate,
Aircraft Certification Service.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[Docket No. USCG-2004-19621]

RIN 1625-AA89

Dry Cargo Residue Discharges in the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking and availability of Draft Environmental Impact Statement.

SUMMARY: The Coast Guard proposes to amend its regulations in accordance with a congressionally approved policy that allows the discharge of non-toxic and non-hazardous bulk dry cargo residues like limestone, iron ore, and coal in limited areas of the Great Lakes. New requirements for recordkeeping would be added and carriers would be encouraged to adopt voluntary control measures for reducing discharges. Discharges would be prohibited in certain special areas where they are now allowed. In addition, the Coast Guard announces the availability of the Draft Environmental Impact Statement prepared in support of the proposed rule.

DATES: Comments and related material must reach the Docket Management Facility on or before July 22, 2008. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 22, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2004-19621 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building,

1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on the Draft Environmental Impact Statement (DEIS), please contact Mr. Greg Kirkbride, U.S. Coast Guard, telephone 202-372-1479 or e-mail Gregory.B.Kirkbride@uscg.mil. If you have questions on this proposed rule, call LT Heather St. Pierre, U.S. Coast Guard, telephone 202-372-1432, e-mail Heather.J.St.Pierre@uscg.mil. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2004-19621), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2004-19621) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

D. Public Meeting

We plan to hold one public meeting before July 22, 2008. The location and date of the meeting will be announced in a subsequent **Federal Register** notice.

II. Abbreviations

CFR United States Code of Federal Regulations
DCR Dry Cargo Residue
DEIS Draft Environmental Impact Statement
DHS Department of Homeland Security
DOT Department of Transportation
IEP Interim Enforcement Policy
NAICS North American Industry Classification System
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
RFA Regulatory Flexibility Act
SBA United States Small Business Administration

III. Background and Purpose

A substantial portion of Great Lakes shipping involves "bulk dry cargos": Principally limestone, iron ore, and coal, but also lesser quantities of other substances like cement and salt. During ship loading or unloading operations, small portions of these cargos often fall on ship decks or within ship unloading tunnels. This fallen dry cargo residue (DCR) can contaminate other cargos or pose safety risks to crew members. Traditionally, Great Lakes carriers have managed DCR by periodically washing both the deck and cargo unloading tunnels with water in a practice

commonly known as “cargo sweeping.” In order to reduce costs and minimize in-port time, ships typically conduct this cargo sweeping underway while transiting between ports, and the water and DCR together is washed off the ship and into the lake.

Under Coast Guard regulations that implement the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, DCR is an operational waste and constitutes garbage, the discharge of which into the navigable waters of the United States is prohibited. If these regulations were strictly enforced on the Great Lakes, they would put an end to the practice of cargo sweeping. However, since 1993, Great Lakes ships have operated under a Coast Guard “interim enforcement policy” (IEP) that allows “incidental discharges” of non-toxic and non-hazardous DCR on the Great Lakes. The IEP allows cargo sweeping only in defined waters, most of which are relatively deep and far from shore. Additionally, the IEP prohibits or restricts discharges in special areas that are considered environmentally sensitive.

In 1998, Congress directed that the Coast Guard “shall continue to implement and enforce” the IEP through September 2002 (Pub. L. 105–383, sec. 415). This mandate was renewed in 2000 and again in 2004 (Pub. L. 106–554, sec. 1117, and Pub. L. 108–293, sec. 623). The current (1997) version of the IEP appears in the docket for this rulemaking as Document ID USCG–2004–19621–0031.

In 2000, Congress passed Public Law 106–554, extending the IEP through September 2004. The 2000 legislation authorized but did not require the Coast Guard to adopt regulations consistent with the IEP. It also required us to study the IEP’s effectiveness. Our study, available in the docket for this rulemaking as Document ID USCG–2004–19621–0010, recommended continuing the IEP, but noted the lack of available data and also recommended that the Coast Guard perform an environmental assessment of the IEP’s long term effects.

In 2004, Congress again extended the IEP, this time until September 30, 2008. Section 623 of Public Law 108–293 gave the Coast Guard authority to regulate the discharge of DCR on the Great Lakes, notwithstanding any other law. The Coast Guard interprets this broad grant of authority to include the authority to regulate any operation, on water or on shore, related to the loading, transfer, or unloading of dry bulk cargo, or to cargo sweeping or other discharge of dry bulk cargo residue, on the Great Lakes. All of these operations relate to and are part

and parcel of the discharge of dry bulk cargo, as contemplated by the statute. The statute also required the Coast Guard to begin the environmental analysis necessary to support new regulations, and we are now announcing the availability, in the docket, of the Draft Environmental Impact Statement (DEIS) prepared in accordance with that mandate. House Report 108–617, the conference report prepared in support of the 2004 legislation, states: “It is expected that the [IEP] will be made permanent or replaced with an alternative regime that appropriately balances the needs of maritime commerce and environmental protection * * *”

On January 13, 2004, the Coast Guard announced in the **Federal Register** (69 FR 1994) that, if we could not promulgate new regulations before the expiration of congressional authorization for the IEP, we would begin enforcing a zero discharge policy on the Great Lakes as soon as the IEP expires. Enforcement of such a policy would end the practice of cargo sweeping on the Great Lakes. This could cause economic hardship and require a significant expenditure of Coast Guard resources. We are reluctant to impose such costs if there is no meaningful offsetting benefit to the environment. Therefore, in exercising our regulatory authority over Great Lakes DCR discharges, we seek an appropriate balance, as Congress intended, between commercial and environmental considerations. We also seek to avoid or minimize any gap during which enforcement of a zero discharge policy takes place by default.

IV. Discussion of Proposed Rule

In this NPRM, we propose a rule to replace the IEP. The DEIS now available for public review indicates that allowing the practice of cargo sweeping to continue in the short term (six to 10 years) would result only in minor indirect impacts on the Great Lakes. Therefore, the proposed rule would allow U.S. and foreign carriers conducting dry bulk cargo operations in the U.S. waters of the Great Lakes to continue sweeping non-toxic and non-hazardous DCR into most of the areas where they are currently allowed to do so under the IEP.

We remain concerned that the potential for risk from any practice, no matter how benign it appears to be, may increase over time. Beyond the short term of six to 10 years, the Coast Guard may need to take additional regulatory action to offset any risk from the indefinite continuation of cargo sweeping. No matter how minor that

risk may be, proper environmental stewardship may require us to take additional steps to reduce the environmental impact of continued DCR discharges. For instance, we may need to mandate the use of control measures to further reduce the quantity of any incidental amounts of non-toxic and non-hazardous DCR being swept. Therefore, upon publication of the proposed final rule, we would simultaneously announce the opening of a new rulemaking, to consider this and other possible regulatory methods for addressing the long term impact of continued DCR discharges.

The Coast Guard intends to complete ongoing research on the economic costs and benefits of various control measures for reducing DCR. This research is critical because, although it is known that many control measures are in voluntary use, and appear to have a beneficial result in reducing DCR and cargo sweeping, almost nothing is known about the effectiveness of specific measures, in specific settings, or about the cost to implement those measures. We would also complete research on whether the geographical boundaries of the areas where cargo sweeping is allowed by the IEP require any modification. We estimate that this research will take up to three more years. Once our research is completed, we will be in a position to consider regulatory changes intended to minimize any long term impacts of cargo sweeping.

The proposed rule, subject to comments from the public, would modify the IEP’s provisions in three key ways. First, we would encourage industry to voluntarily adopt control measures for reducing the accumulation of DCR and the amount of DCR that is swept overboard. Second, we would impose new recordkeeping requirements on carriers. Third, we would extend the protection against DCR sweeping that the IEP gives to areas considered “special” because they contain wildlife refuges, designated protection areas, or other habitats that are especially sensitive environmentally. These modifications are discussed in more detail in the following paragraphs.

A. Control Measures

The proposed rule would encourage U.S. and foreign carriers conducting dry bulk cargo operations on the Great Lakes to make voluntary use of measures to control and reduce the amount of DCR that falls on a ship’s deck or within a ship’s unloading tunnels and that ultimately may be swept into the Great Lakes. In the DEIS, we have identified

many possible control measures, some of which are already in use. Some of these measures are used onboard the ship, while others are used by the shoreside facilities where the ship loads or unloads its cargo. These control measures range from simply using tarps to collect DCR so that it can be returned to cargo holds, to sophisticated loading and unloading equipment designed to prevent DCR from falling in the first place. The economic benefit of reducing DCR accumulation or from returning DCR to cargo holds should help offset the cost of any proposed control measures.

Conceivably, future Coast Guard regulations could impose additional restrictions on the practice of cargo sweeping on the Great Lakes. For example, we could condition our allowance of discharges upon a carrier's use of control measures to reduce the amount of DCR accumulated and the amount of DCR swept overboard. If future regulations require the use of control measures other than those that a carrier voluntarily employs beforehand, among other potential benefits the Coast Guard could credit the carrier for its proactive experimentation with voluntary control measures and provide a phase-in period for implementation of the required measures. Data provided by carriers who voluntarily make use of shipboard or shoreside control measures should help us determine which measures are effective and which should be required, if any.

B. Recordkeeping

The proposed rule would require foreign carriers conducting dry bulk cargo operations on the U.S. waters of the Great Lakes, and U.S. carriers conducting those operations anywhere on the Great Lakes, to observe new recordkeeping requirements. Many carriers already voluntarily compile limited information on their cargo sweepings. However, the proposed recordkeeping requirements would apply not only to all cargo sweeping events, but also to every bulk dry cargo loading or unloading operation, whether or not the loading or unloading operation is followed by a cargo sweeping. These records, when reported to the Coast Guard, will give us a more comprehensive picture of what causes DCR accumulation, the conditions under which DCR is swept overboard, and the shipboard and shoreside control measures that reduce DCR accumulation and the amount swept overboard.

We propose that records be kept on a standard form and that carriers record information about:

- Cargo handled;
- Shoreside facilities involved in loading and unloading;
- Control measures used by the facility or by the ship;
- Time needed to implement control measures;
- Estimated volume of DCR resulting from each loading or unloading; and
- Date, time, ship location and speed during each sweeping event.

Under the proposed rule, the need for recordkeeping would vary depending on the ship's nationality and whether operations are conducted in U.S. or Canadian waters. The following examples illustrate how these variables would affect the need for recordkeeping:

Example 1: Canadian ship loads cargo in Canadian waters and sweeps DCR into Canadian waters—no recordkeeping required.

Example 2: Canadian ship loads cargo in Canadian waters and sweeps DCR into U.S. waters—recordkeeping required for the U.S. sweeping event, but not for the Canadian loading event.

Example 3: U.S. ship loads cargo in U.S. waters and sweeps DCR into U.S. waters—recordkeeping required both for the loading event and for the sweeping event.

Example 4: U.S. ship loads cargo in U.S. waters and sweeps DCR into Canadian waters (if allowed by Canadian law)—recordkeeping required both for the loading event and for the sweeping event.

Example 5: Canadian ship loads cargo in U.S. waters and sweeps DCR into Canadian waters—recordkeeping required for the U.S. loading event but not for the Canadian sweeping event.

Example 6: U.S. ship loads cargo anywhere in the Great Lakes without any accumulation of DCR—recordkeeping required for the loading event and to document that there was no sweeping.

We propose to require that carriers keep these records onboard for at least two years, and to submit copies of the records to the Coast Guard on a quarterly basis. This recordkeeping requirement would ensure that, while we continue our analysis of the costs and benefits associated with particular control measures, we would receive up-to-date information about these measures that can be included in our analysis.

C. Special Areas

The proposed rule would extend the IEP's restrictions against discharges in 13 areas considered "special" because they contain wildlife refuges, designated protection areas, or other habitats that are especially sensitive environmentally. In seven of those 13 areas, the IEP already prohibits all discharges. However, the IEP allows some DCR sweeping in six of the 13 areas. DCR sweeping historically has

been allowed in the Detroit River National Wildlife Refuge in Lake Erie, portions of the Northern Refuge in Lake Michigan, and the Thunder Bay National Marine Sanctuary in Lake Huron. Limestone and clean stone can be swept in Green Bay (Lake Michigan), and in the Isle Royale National Park in Lake Superior. In the Western Basin of Lake Erie, the IEP allows limestone and clean stone sweepings, and also allows carriers on certain routes to sweep iron ore, coal, and salt DCR over the dredged navigation channels between Toledo Harbor Light and Detroit River Light.

The DEIS indicates that DCR sweepings have a minor environmental impact in these six special areas, which with the exception of the Western Basin's dredged channels, can be mitigated by prohibiting discharges. In most cases, sweeping could be prohibited in these six areas without a significant adverse effect on ship operations or safety, because ships would merely have to refrain from sweeping until they exit the special area. We believe there may be a few limestone or clean stone ships, operating in Green Bay and in the Western Basin, which never leave those areas. For those few ships, a prohibition of limestone or clean stone DCR discharges anywhere in Green Bay or the Western Basin could pose an extreme hardship. Exception of those few ships from the prohibition could relieve them from what would otherwise be a heavy regulatory burden. We specifically request comments related to this proposed exception, its limits, and the actual impact to shipping operations if we do not include the exception in our regulations.

Accordingly, in the proposed rule we would prohibit DCR discharges anywhere in the six special areas, with two exceptions. First, we propose retaining the IEP's limited exception for iron ore, coal, and salt DCR sweepings in Lake Erie's Western Basin because the DEIS indicates that prohibiting those sweepings would have no mitigating impact. Second, we propose that the prohibition of limestone or clean stone sweepings in Lake Michigan's Green Bay or in Lake Erie's Western Basin would not apply to ships that carry those substances exclusively within either of those two areas, for the reasons discussed in the preceding paragraph.

V. Regulatory Evaluation

A. Executive Order 12866

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and

does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

There is very little cost involved with requiring vessels to keep records of their bulk dry cargo residue sweepings and to make those records available to the Coast Guard. Moreover, many vessel operators already record this information voluntarily. We are also encouraging and not requiring the use of control measures to reduce the amount of residue swept into the Great Lakes.

1. DCR Recordkeeping Costs

The new recordkeeping provisions would require vessel operators to maintain logs to show which bulk dry cargoes are loaded, unloaded, and swept, when they are swept, how they are swept, how much is swept, what control measures, if any, are in place, and where sweepings take place. During the 2006 shipping season, 55 U.S.-flag vessels carrying dry-bulk cargoes operated on the Great Lakes.

There are three types of responses. The first type is an entry on the form each time the vessel loads, unloads, or sweeps. Each loading and unloading operation and each sweeping event counts as a separate entry. Each of the 55 U.S.-flag dry cargo vessels operating on the Great Lakes makes an average of 60 trips each season. A trip is defined as a vessel going from one port to another. We assume that at each port, a vessel either loads or unloads cargo. Each trip is marked by one loading and one unloading operation, and sweeping occurs for 75 percent of the trips,

resulting in a total of 2.75 recordings per trip. Therefore, we estimate that there will be approximately 9,075 (= 60 trips/vessel/season * 2.75 entries * 55 vessels) entries annually. It is anticipated the recordkeeping would be done by a person comparable to a Lieutenant with a loaded wage rate of \$61 per hour, or \$1.02 per minute, using year 2006 rates. The loaded wage rate reflects the full labor cost the employer pays and includes employee benefits such as insurance and vacation. We assume that each entry takes 5 minutes to complete. This equals a total of 45,375 minutes to complete all entries for the year. Therefore, the cost is \$5.10 (\$1.02/minute * 5 minutes) per entry, and the annual total cost for all entries is \$46,282.50 (= 9,075 entries * \$5.10/entry).

The second type of response is certification of a form by the vessel's Master. Each vessel makes 165 (= 60 trips * 2.75 entries/trip) entries per year. Each form is used to record 7 entries. Therefore, each of the 55 vessels completes 24 (= 165 entries/vessel/year ÷ 7 entries/form) forms per year to be certified by the vessel's Master. This equals 1,320 (= 24 forms/vessel/year * 55 vessels) total certifications per year. A Master would be equivalent to a Captain, with a loaded wage rate of \$115 per hour, or \$1.92 per minute, using year 2006 rates. We assume it takes a Master 5 minutes to certify each form. Therefore, it costs \$9.60 (= 5 minutes/form * \$1.92/minute) for a Master to certify one form. Since each vessel certifies 24 forms per year, the cost of certification by the vessel's Master per vessel is \$230.40 (= \$9.60/form * 24

forms) annually. Since there are 55 vessels, the annual burden of the certification is 6,600 (= 5 minutes/form * 24 forms/vessel * 55 vessels) minutes, and the total annual cost of the certification is \$12,672 (= 6,600 minutes * \$1.92/minute) for the entire U.S. fleet.

The third type of response is the quarterly submission of the forms to the Coast Guard. There are 220 submissions per year (= 55 vessels * 4 submissions/year/vessel). We assume that it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 220 submissions per year, the total annual submission burden for the entire fleet is 1,100 minutes (= 220 submissions * 5 minutes), or \$1,122 (= 1,100 minutes * \$1.02/minute), assuming submissions are done by a person comparable to a Lieutenant, with a wage rate of \$1.02 per minute, using year 2006 rates.

Therefore, the estimated total annual undiscounted cost of the proposed new recordkeeping requirement is \$60,077 (= \$46,283 recording cost + \$12,672 Master certification cost + \$1,122 submission cost) for the entire U.S. fleet. With discounting, the cost of the recordkeeping requirement would be \$58,327 discounted at 3 percent and \$56,147 discounted at 7 percent. The ten-year undiscounted cost of the recordkeeping requirement is \$600,770; \$512,469 discounted at 3 percent; and \$421,956 discounted at 7 percent.

Table 1 below summarizes the ten-year undiscounted cost of the recordkeeping requirement, as well as the ten-year cost discounted at 7 percent and at 3 percent.

TABLE 1.—TOTAL TEN-YEAR COST OF DCR RECORDKEEPING FOR U.S. FLEET

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2009	\$60,077	\$56,147	\$58,327
2010	60,077	52,474	56,628
2011	60,077	49,041	54,979
2012	60,077	45,832	53,378
2013	60,077	42,834	51,823
2014	60,077	40,032	50,314
2015	60,077	37,413	48,848
2016	60,077	34,965	47,425
2017	60,077	32,678	46,044
2018	60,077	30,540	44,703
Total	600,770	421,956	512,469

The proposed rule would also require foreign carriers to keep records of loading and unloading at U.S. ports and to keep records of any DCR sweepings that are conducted while in U.S. waters of the Great Lakes. There are 33 Canadian vessels, each making an

average of 42 trips per year into U.S. ports on the Great Lakes. There are 186 non-Canadian foreign vessels, each making an average of 4 trips per year into U.S. ports on the Great Lakes. We assume that a foreign vessel that makes a U.S. port call in the Great Lakes either

loads or unloads cargo at a U.S. port. We also use the worst-case assumption that these foreign vessels sweep DCR into U.S. waters of the Great Lakes three-quarters of the time the vessels are in U.S. waters. Under these assumptions,

each of these foreign vessels makes 1.75 recordings per trip.

Each Canadian vessel makes 73.5 (= 42 trips * 1.75 entries) recordings per year. Since there are 33 Canadian vessels, the total number of entries per year by Canadian vessels is estimated to be 2,426 (= 73.5 recordings * 33 vessels) entries. Assuming it takes an average of 5 minutes to complete each entry, it would take approximately 12,130 (= 2,426 entries * 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost Canadian carriers a total of \$12,373 (= 12,130 minutes * \$1.02/minute). Since each vessel makes 73.5 entries per year, and each form is used to record 7 entries, this equals 11 (= 73.5 entries/vessel/year ÷ 7 entries/form) forms a year per vessel. Each of the 33 vessels completes 11 forms per year to be certified by the vessel's Master. This equals 363 (= 11 forms/vessel/year * 33 vessels) total certifications per year. We assume it takes a Master 5 minutes to certify each form. Therefore, it takes 1,815 (= 363 certifications * 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification is \$3,485 (= 1,815 minutes * \$1.92/minute). In addition, there are a total of 132 (= 33 Canadian vessels * 4 submissions/vessel/year) submissions per year. We assume it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 132 submissions per year, the total annual submission burden for the entire fleet of Canadian vessels is 660 (= 132 submissions/year * 5 minutes) minutes, or \$673 (= 660 minutes * \$1.02/minute). We estimate that the total annual cost of the recordkeeping requirement to Canadian carriers is \$16,531 (= \$12,373 recording cost + \$3,485 Master certification cost + \$673 submission cost).

Each non-Canadian foreign vessel makes 7 (= 4 trips * 1.75 entries) recordings per year. Since there are 186 non-Canadian foreign vessels, the total number of entries per year by non-Canadian foreign vessels is estimated to be 1,302 (= 186 vessels * 7 entries/vessel/year) entries. Assuming it takes an average of 5 minutes to complete each entry, it would take approximately 6,510 (= 1,302 entries * 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost non-Canadian foreign carriers a total of \$6,640 (= 6,510 minutes * \$1.02/minute). Since each vessel makes 7 entries per year, and each form is used to record 7 entries, each of the 186 vessels completes 1 form per year to be certified by the vessel's

Master. This equals 186 total certifications per year. We assume it takes a Master 5 minutes to certify each form. Therefore, it takes 930 (= 186 certifications * 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification is \$1,786 (= 930 minutes * \$1.92/minute). In addition, there are a total of 744 (= 186 non-Canadian foreign vessels * 4 submissions/vessel/year) submissions per year. We assume it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 744 submissions per year, the total annual submission burden for the entire fleet of non-Canadian foreign vessels is 3,720 (= 744 submissions/year * 5 minutes) minutes, or \$3,794 (= 3,720 minutes * \$1.02/minute). We estimate that the total annual cost of the recordkeeping requirement to non-Canadian foreign carriers is \$12,220 (= \$6,640 recording cost + \$1,786 Master certification cost + \$3,794 submission cost).

We estimate that the total annual cost of the recordkeeping requirement to foreign carriers is \$28,751 (= \$16,531 cost to Canadian carriers + \$12,220 cost to non-Canadian foreign carriers).

The proposed rule would also impose new restrictions on sweeping in protected or special areas. The proposed requirements would ban sweeping in Lake Huron's Thunder Bay, Lake Michigan's Northern Refuge, Lake Superior's Isle Royale National Park and the Detroit River at Lake Erie. Since all observed routes through these areas extend beyond the boundaries, banning dry cargo sweeping in these areas allows vessel operators to continue to sweep outside of the designated areas. In addition, the proposed rule would limit limestone sweeping in Lake Erie's Western Basin and Lake Michigan's Green Bay areas to vessels with routes exclusively inside these areas. Again, we consider all vessels that travel outside the protected or special areas to have the option of sweeping while outside of the boundaries. The proposed rule would not require vessels that travel exclusively inside these areas to modify behavior. As a result, there is no cost estimated for restricting sweeping in protected or special areas.

2. No-Action Alternative

Executive Order 12866 requires us to evaluate proposed alternatives including the No-Action Alternative. Under the No-Action Alternative, the Coast Guard would issue no new regulations to control incidental bulk dry cargo residues on the Great Lakes. Instead, the Coast Guard would enforce its existing regulation at 33 CFR 151.66.

That regulation was issued pursuant to the Coast Guard's authority under the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, and prohibits the discharge of "garbage," a term that includes any dry cargo residue, into the navigable waters of the U.S. Currently, a limited exception is made for DCR sweepings in the Great Lakes pursuant to the Coast Guard's interim enforcement policy. Congress has sanctioned the IEP, most recently in the Coast Guard and Maritime Transportation Act of 2004, but that sanction expires on September 30, 2008. After that date, the Coast Guard would enforce 33 CFR 151.66's prohibition of DCR sweepings in all U.S. navigable waters of the Great Lakes. Although the benefit of the No-Action Alternative is zero discharge of DCR, the estimated initial cost of the No-Action Alternative, as shown in Table 2, is \$51,804,383, and the estimated annual cost is \$35,730,000.

We are deferring, for consideration in a future rulemaking, any decision on how best to regulate DCR sweepings over the long term. The proposed rule would be put in place in part to help gather more information to assess the issue.

One possible method to achieve zero discharge is to sweep with brooms and shovel the deck after every loading and unloading along with washing the tunnel after every unloading. We have analyzed this method, because data is readily available, and because if a zero discharge requirement quickly went into effect, this method would require little planning or other advance work to put into practice. Our data suggests it would be the most effective and least expensive method for immediate implementation. After loading and unloading a vessel, the deck would be swept of DCR, and the swept DCR is assumed to be placed in the cargo hold or on shore. After unloading, the tunnel surfaces would be washed down and the washwater would be pumped to shore for disposal at a shoreside facility for pretreatment. Following pretreatment, the washwater would be transferred to the municipal sewer authority for final treatment.

Foreign dry bulk vessels that call at a U.S. port in the Great Lakes typically load or unload cargo at a U.S. port and then leave U.S. waters. Therefore, they have the option of waiting until they are out of U.S. waters to conduct sweeping. Under the No-Action Alternative, they could wait until they are out of U.S. waters; therefore, there would be no cost to foreign dry bulk vessels under the No-Action Alternative.

Costs to U.S. vessels associated with the broom and shovel method, as an example, to achieve the No-Action Alternative include the following:¹

- Assuming DCR washwater pretreatment facilities would be built at any port receiving or shipping dry cargo, 181 such facilities would be needed. The capital cost for those facilities is estimated at \$8,950,633, which would be incurred in the first year, and the annual operations and maintenance cost is estimated at \$321,000.

- The sewer usage charge is estimated to be \$2.00 per 1,000 gallons of washwater. The average amount of washwater to be discharged is estimated at 30,000 gallons per trip. Since each ship that transports dry cargo makes an estimated 60 trips per year, each ship would produce approximately 1.8 million gallons of washwater annually, and since there are 55 ships engaged in transporting dry cargo on the Great Lakes, the total amount of washwater to be discharged would be 99 million gallons per year. Since the cost of sewer usage is \$2.00 per 1,000 gallons of washwater, the total cost of sewer usage is \$198,000 annually for the entire fleet.

- Interior piping and pumps would be required to be installed on each vessel and would cost an average of \$129,500 per vessel. Since there are 55 vessels, the total cost of the piping and pumps is estimated at \$7,122,500 for the

entire fleet. We assume retrofitting or replacement of interior pumps and piping will occur during winter months when the vessels are not in service.

- The total cost of brooms and shovels for all vessels would be \$1,250.

- Additional time at the facility would be required to conduct deck sweepings and tunnel washdowns. We assume it takes 4 people 2.5 hours to sweep the deck every time a vessel loads and unloads cargo and that it takes 1 person 3.5 hours to wash the tunnel each time a vessel unloads cargo, resulting in a delay time of 6 (= 2.5 hours + 3.5 hours) hours per trip due to the deck sweepings and tunnel washdowns. Since each vessel makes an estimated 60 trips per year, the delay per vessel is approximately 360 hours annually, and since there are 55 vessels, the total annual delay is 19,800 hours. The Coast Guard estimates that the hourly cost of vessel operation is \$1,700;² thus, the total cost of the time delay is estimated at \$33,660,000 per year for the entire fleet of U.S. vessels.

- There is also a labor cost for deck sweepings and tunnel washdowns. We assume it takes 4 people an average of approximately 2.5 hours to sweep the deck of a vessel after each loading and unloading event. This equals 20 hours of labor for deck sweeping per trip. Assuming the loaded wage rate is \$20 per hour, the labor cost would be \$400 (= 20 hours * \$20/hour) per trip. Each

vessel makes 60 trips per year; therefore, for each vessel, the labor cost of deck sweepings is \$24,000 (= \$400 per trip * 60 trips per vessel) per year. Since there are 55 vessels, the total annual cost of deck sweepings after loadings and unloadings is \$1,320,000 (= \$24,000 annual cost per vessel * 55 vessels) for the entire fleet. In addition, we assume it takes 1 person an average of approximately 3.5 hours to wash the tunnel after each unloading event. This equals 3.5 burden hours of labor after each unloading event. Assuming the wage rate is \$20 per hour, the labor cost to wash the tunnel would be \$70 (= 3.5 hours * \$20/hour) after each unloading event. Each vessel makes 60 trips per year. Therefore, for each vessel, the labor cost for washing the tunnel after each unloading is \$4,200 (= \$70 per event * 60 trips) per year. Since there are 55 vessels, the total annual cost of tunnel washdowns is \$231,000 (= 4,200 per vessel * 55 vessels) for the entire fleet. The total annual labor cost of deck sweepings and tunnel washdowns is \$1,551,000 (= \$1,320,000 deck sweeping labor cost + \$231,000 tunnel washdown labor cost) for the entire fleet.

Therefore, the total undiscounted initial cost of the No-Action Alternative is estimated at \$51,804,383, and the total undiscounted annual cost is estimated at \$35,730,000. Table 2 below itemizes the cost of the No-Action Alternative.

TABLE 2.—NO-ACTION ALTERNATIVE ITEMIZED COST LIST

	Initial	Annual
Pretreatment Facilities	\$8,950,633	N/A
Operations & Maintenance	321,000	\$321,000
Sewer Usage	198,000	198,000
Piping & Pumps	7,122,500	N/A
Brooms & Shovels	1,250	N/A
Delay	33,660,000	33,660,000
Labor	1,551,000	1,551,000
Total	51,804,383	35,730,000

Table 3 below summarizes the ten-year undiscounted cost of the No-Action Alternative, as well as the ten-year cost

discounted at 7 percent and at 3 percent.

TABLE 3.—TOTAL TEN-YEAR COST OF NO-ACTION ALTERNATIVE

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2009	\$51,804,383	\$48,415,311	\$50,295,517
2010	35,730,000	33,392,523	34,689,320
2011	35,730,000	31,207,966	33,678,952
2012	35,730,000	29,166,323	32,698,011
2013	35,730,000	27,258,246	31,745,642

¹ CH2M Hill has provided cost data for this method, through phone conversations, emails, memos, and the DEIS.

² USCG estimate based on operating costs data from the U.S. Army Corps of Engineers for 2002 and 2005 and the Lake Carriers Association for 2007.

TABLE 3.—TOTAL TEN-YEAR COST OF NO-ACTION ALTERNATIVE—Continued

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2014	35,730,000	25,474,996	30,821,012
2015	35,730,000	23,808,408	29,923,312
2016	35,730,000	22,250,848	29,051,760
2017	35,730,000	20,795,185	28,205,592
2018	35,730,000	19,434,753	27,384,070
Total	373,374,383	281,204,559	328,493,189

The ten-year cost of the No-Action Alternative is \$373,374,383 when undiscounted; \$328,493,189 when discounted at a rate of 3 percent; and \$281,204,559 when discounted at a rate of 7 percent.

B. Small Entities

In accordance with the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Coast Guard must assess whether a rule would have a significant economic impact on a substantial number of small entities.

A small entity may be:

- A small business that, defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act (15 U.S.C. 632);
- A small independent not-for-profit organization, and;
- A small governmental jurisdiction (locality with fewer than 50,000 people).

Although the proposed rule would affect both U.S. and foreign vessels, for purposes of the small entities analysis, entities affected by the proposed rule would be U.S.-flag vessel owners that carry dry bulk cargo and operate on the Great Lakes. We determined which entities were small, based on the North American Industry Classification System (NAICS) using public and proprietary business databases. The NAICS code, company information such as the number of employees and annual revenues are obtained by utilizing these databases. By using the United States Small Business Administration (SBA) criteria for small businesses and the associated NAICS code for a particular business, we are able to determine whether a business is small or large.³ In some cases, businesses are small based on the number of employees, though many businesses are classified based on their annual revenues.

There are 13 small businesses that would be affected by the proposed rule. We have made efforts to reduce the impact on these entities, including the

use of standardized forms and allowing electronic submissions. The estimated total annual cost of the proposed new recordkeeping requirement is \$60,077 or \$1,092 per vessel per year.

We address the projected reporting and recordkeeping requirements as well as the type and professional skills necessary for the preparation of reports and records in the cost analysis and Collection of Information sections of this report.

This Initial Regulatory Flexibility Act Analysis addresses the following:

- The reason the agency is considering this action;
- The objectives of and legal basis for the proposed rule;
- The number and types of small entities to which the rule would apply;
- The classes of small entities that would be subject to the requirements of the proposed rule;
- Other relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule, and;
- Significant alternatives to the component under consideration that accomplish the stated objectives of applicable statutes and may minimize any significant economic impact of the proposed rule on small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. Pursuant to section 212 of that Act, the Coast Guard will prepare a Small Entity Compliance Guide to assist small entities in complying with this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LT St. Pierre (see **FOR FURTHER INFORMATION CONTACT**). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

1. Reason for Agency Action

Under 33 CFR 151.66, a Coast Guard regulation that implements the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, cargo residue is treated as operational waste, which meets the definition of “garbage” under 33 CFR 151.05, and, therefore, its discharge into the navigable waters of the United States is prohibited. If strictly enforced on the Great Lakes, this regulation would put an end to cargo sweeping. Since 1993, Great Lakes shipping has operated under a Coast Guard IEP that allows “incidental discharges” of non-toxic and non-hazardous bulk DCR to continue in certain U.S. waters of the Great Lakes. Congress first approved the IEP in 1998 and has mandated its continuation until September 30, 2008 or until the Coast Guard issues new regulations relating to DCR on the Great Lakes, whichever comes first. Congress has expressed an expectation that any new regulations would appropriately balance the needs of maritime commerce and environmental protection. The Coast Guard has stated that if the IEP expires before new regulations can be issued, 33 CFR 151.66 will be enforced in all U.S. waters of the Great Lakes.

Enforcement of 33 CFR 151.66 in the Great Lakes could cause economic hardship and require the significant expenditure of Coast Guard resources, possibly with no significant benefit to the environment. Therefore, we propose allowing the continuation of present DCR practices in the Great Lakes, with

³ Readers can access small business information online at <http://www.sba.gov/size/indexableofsize.html>.

the addition of new recordkeeping requirements.

2. Objective and Legal Basis

The proposed rule would meet the congressional objective of striking an appropriate balance between the needs of maritime commerce and environmental protection. The recordkeeping requirement could greatly increase our ability to understand the practice of dry cargo sweeping, monitor the practice, and if necessary subject it to further controls in the future. Our proposed mandatory DCR recordkeeping requirements would provide additional data in support of

our cost/benefit assessment of possible alternative ways of managing DCR. Section 623 of Public Law 108–293 authorized the Coast Guard to promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes, notwithstanding any other law. This proposed rule would amend 33 CFR Part 151.

3. Number of Types of Small Entities Affected

We determined that 13 small businesses are affected by this proposed rule. Of the 13 small businesses, we found revenue data for 9 companies.

To estimate the impact on small businesses, we divided the total annual

recordkeeping cost of \$60,077 by the total number of vessels for an estimate of \$1,092 per vessel. We then multiply this by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the cost to annual revenues. This allows us to determine the annual cost impact of this proposed rule on small businesses, based on SBA’s criteria for small businesses and company information obtained through the online databases. Table 4 presents the annual revenue impacts for the 9 small companies that we researched with known average annual revenues.⁴

TABLE 4.—ESTIMATED REVENUE IMPACT OF THE PROPOSED RULE FOR SMALL BUSINESSES THAT OWN U.S.-FLAG DRY-BULK VESSELS OPERATING ON THE GREAT LAKES

Percent impact on annual revenue	Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–3%	9	100
>3–5%	0	0
>5–10%	0	0
>10–20%	0	0
>20%	0	0
Total	9	100

As shown, annually, the proposed rule would have a 3 percent or less impact on all of the small businesses that own vessels that would have to comply with the recordkeeping requirement of this proposed rule.⁵ Thus, while the proposed rule would affect 13 small entities, the costs are relatively minimal. To put the per vessel annual recordkeeping cost of \$1,092 in context, this cost is less the vessel’s hourly operating cost, which we estimate is \$1,700 per hour. Consequently, the data suggest that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial

number of small entities, and we request comments on whether you believe this finding is correct.

We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or government jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why, how, and to what degree you think this rule would have an economic impact on you.

4. Classes of Entities Affected by the Proposed Rule

We classified small businesses by the NAICS code previously mentioned for

those businesses that had known company information and determined whether a business was small or large by using the SBA size standards matched to the NAICS codes. Based on the industry classification codes, we found that about 44 percent of the small businesses that we analyzed are classified as “Navigational Services to Shipping” and “Packaging and Labeling,” each representing about 22 percent of the small companies that we analyzed. The remaining 56 percent of the small businesses that we analyzed are comprised of five different industry classification codes for a total of seven NAICS codes. All of the nine small businesses that we analyzed represent seven different NAICS codes. Table 5 presents the types of small entities that the proposed rule would affect.

TABLE 5.—NAICS CODES, DESCRIPTIONS, DEFINITIONS, AND NUMBER AND PERCENT OF SMALL BUSINESSES AFFECTED BY THE PROPOSED RULE

NAICS code	Description	Small business definition	Number of small entities	Percent of small entities
488330	Navigational Services to Shipping	< \$6.5M annual rev	2	22.2

⁴ When estimating revenue impacts, we do not discount annual costs or annual revenues.

⁵ These data are based on the small businesses that we sampled from the total population and from

the data that we obtained using the online public and proprietary business databases.

TABLE 5.—NAICS CODES, DESCRIPTIONS, DEFINITIONS, AND NUMBER AND PERCENT OF SMALL BUSINESSES AFFECTED BY THE PROPOSED RULE—Continued

NAICS code	Description	Small business definition	Number of small entities	Percent of small entities
561910	Packaging and Labeling Services	< \$6.5M annual rev	2	22.2
486910	Pipeline Transportation of Refined Petroleum.	< 1500 employees	1	11.1
488320	Marine Cargo Handling	< \$23.5M annual rev	1	11.1
522110	Commercial Banking	< \$165M in assets	1	11.1
483211	Inland Water Freight Transportation	< 500 employees	1	11.1
813910	Business Associations	< \$6.5M annual rev	1	11.1
Total	9	100.0

5. Other Federal Rules

Current Coast Guard regulations on garbage pollution found at 33 CFR Sections 151.51 through 151.77 would prohibit the sweeping of DCR into the Great Lakes. Section 623 of Public Law 108–293 requires the Coast Guard to enforce its IEP, which allows limited DCR sweeping on the Great Lakes, until September 30, 2008. Additionally, section 623(b) of Public Law 108–293 authorizes the Coast Guard to promulgate regulations governing the sweeping of dry bulk cargo residue on the Great Lakes, notwithstanding any other law. The proposed rule would amend 33 CFR Part 151 to allow the sweeping of dry bulk cargo residue on the Great Lakes notwithstanding any other law.

6. Regulatory Alternatives

The No-Action Alternative has an estimated total initial cost of

\$51,804,383 or \$941,898 per vessel, and it has an estimated total annual cost of \$35,730,000 or \$649,636 per vessel, and therefore, could have a significant economic impact on a substantial number of small entities.

To estimate the impact on small businesses initially, we divided the first year costs for implementing the No-Action Alternative by the number of vessels. We then multiply this figure by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the initial cost to annual revenues. This allows us to determine the initial cost impact of this proposed rule on small businesses, based on SBA’s criteria for small businesses and company information obtained through the online databases. We also estimated the annual cost impact on small businesses using the same methodology explained above.

Again, we divided the annual recurring costs that each small business would incur under the No-Action Alternative by the number of vessels. We then multiply this figure by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the annual costs to annual revenues.

Table 6 presents the initial and recurring annual revenue impacts for the sample of nine small companies that we researched with known average annual revenues.⁶ Table 6 shows that under the No-Action Alternative, there would be over 80 percent impact on annual revenues for approximately 56 percent of small businesses initially, and there would be over 80 percent impact on annual revenues for approximately 44 percent of small businesses annually.

TABLE 6.—ESTIMATED REVENUE IMPACT OF THE NO-ACTION ALTERNATIVE FOR SMALL BUSINESSES THAT OWN U.S.-FLAG DRY-BULK VESSELS OPERATING ON THE GREAT LAKES

Percent impact on annual revenue	Initial		Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–20%	3	33	3	33
>20–40%	0	0	0	0
>40–60%	0	0	1	11
>60–80%	1	11	1	11
>80%	5	56	4	44
Total	9	100	9	100

D. Collection of Information

This proposed rule would call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), “collection of information”

comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an

estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and

⁶ When estimating revenue impacts, we do not discount initial and annual costs or annual revenues.

completing and reviewing the collection.

Title: Dry Cargo Residue Sweepings in the Great Lakes.

Summary of the Collection of Information: The new DCR recordkeeping provisions would require vessel operators to maintain a DCR log to document what dry cargos are loaded, unloaded, and swept, when they are swept, how they are swept, how much is swept, what control measures, if any, are in place, and where, when, and how fast the vessel is traveling when the sweepings take place.

Need for Information: By making DCR recordkeeping mandatory, we will greatly increase our ability to understand the practice of dry cargo sweeping, monitor the practice, and if necessary, subject the practice of DCR sweeping to further controls in the future.

Proposed Use of Information: Our proposed mandatory DCR recordkeeping requirements would provide additional data in support of our cost/benefit assessment of reasonable methods for reducing DCR discharges over the long term, beyond the next six to 10 years.

Description of the Respondents: The respondents would be U.S. and foreign vessels that carry dry-bulk cargo and operate on U.S. waters of the Great Lakes. During the 2006 shipping season, 55 U.S. vessels and 219 foreign vessels carrying dry-bulk cargo operated on the Great Lakes. The respondents include these 274 vessels conducting the DCR recordkeeping, handling the submissions, and certifying each form.

Number of Respondents: The total number of vessels that handle Great Lakes dry bulk cargo shipments is 274 (= 55 U.S. vessels + 33 Canadian vessels + 186 non-Canadian foreign vessels).

Frequency of Response: There are three types of responses. The first type is an entry on the form each time the vessel loads, unloads, or sweeps. Each loading and unloading operation and each sweeping event counts as a separate entry. From the Draft Environmental Impact Statement, each of the 55 U.S.-flag dry cargo vessels operating on the Great Lakes makes an average of 60 trips each season. Each trip is marked by one loading and one unloading operation, and sweeping occurs for 75 percent of the trips, resulting in a total of 2.75 recordings per trip. A trip is defined as a vessel going from one port to another. We assume that at each port, a vessel either loads or unloads cargo. Therefore, we estimate that there will be approximately 9,075 [= (60 trips/vessel/season * 2.75 entries) * 55 vessels] entries annually by U.S. vessels.

There are 33 Canadian vessels, each making an average of 42 trips per year into U.S. ports on the Great Lakes. There are 186 non-Canadian foreign vessels, each making an average of 4 trips per year into U.S. ports on the Great Lakes. We assume that a foreign vessel that makes a U.S. port call in the Great Lakes either loads or unloads cargo at a U.S. port. We also use the worst-case assumption that these foreign vessels sweep DCR into U.S. waters of the Great Lakes three-quarters of the time the vessels are in U.S. waters. Under these assumptions, each of these foreign vessels makes 1.75 recordings per trip. Each Canadian vessel makes 73.5 (= 42 trips * 1.75 entries) recordings per year. Since there are 33 Canadian vessels, the total number of entries per year by Canadian vessels is estimated to be 2,426 (= 73.5 recordings * 33 vessels) entries. Each non-Canadian foreign vessel makes 7 (= 4 trips * 1.75 entries) recordings per year. Since there are 186 non-Canadian foreign vessels, the total number of entries per year by non-Canadian foreign vessels is estimated to be 1,302 entries.

The second type of response is certification of a form by the vessel's Master. Each U.S. vessel makes 165 (= 60 trips * 2.75 entries/trip) entries per year. Each form is used to record 7 entries. Therefore, each of the 55 U.S. vessels completes 24 forms per year to be certified by the vessel's Master. This equals 1,320 total certifications per year by the U.S. fleet. Since each Canadian vessel makes 73.5 entries per year, and each form is used to record 7 entries, this equals 11 forms a year per vessel. Each of the 33 Canadian vessels completes 11 forms per year to be certified by the vessel's Master. This equals 363 total certifications per year by the Canadian fleet. Since each non-Canadian foreign vessel makes 7 entries per year, and each form is used to record 7 entries, each of the 186 non-Canadian foreign vessels completes 1 form per year to be certified by the vessel's Master. This equals 186 total certifications per year by the fleet of non-Canadian foreign vessels.

The third type of response is the quarterly submission of the forms to the Coast Guard. There are 220 submissions per year (= 55 U.S. vessels * 4 submissions/year/vessel) by the U.S. fleet. There are a total of 132 (= 33 Canadian vessels * 4 submissions/vessel/year) submissions per year by the Canadian fleet. There are a total of 744 (= 186 non-Canadian foreign vessels * 4 submissions/vessel/year) submissions per year by the fleet of non-Canadian foreign vessels.

Therefore, we estimate that there will be approximately 10,615 (= 9,075 form entries + 1,320 Master certifications + 220 submissions) total responses per year by the U.S. fleet; 2,921 (= 2,426 form entries + 363 Master certifications + 132 submissions) total responses per year by the Canadian fleet; and 2,232 (= 1,302 form entries + 186 Master certifications + 744 submissions) total responses per year by the fleet of non-Canadian foreign vessels.

Burden of Response: We estimate that there are 9,075 entries per year by U.S. vessels. It is anticipated the recordkeeping would be done by a person comparable to a Lieutenant with a wage rate of \$61 per hour, or \$1.02 per minute, using year 2006 rates. We assume that each entry takes 5 minutes to complete. This equals a total of 45,375 minutes to complete all entries for the year. Therefore, the cost is \$5.10 per entry, and the annual total cost for all entries by the U.S. fleet is \$46,282.50 (= 9,075 entries/year * \$5.10/entry). Assuming it takes an average of 5 minutes to complete each of the 2,426 entries by the Canadian fleet, it would take approximately 12,130 (= 2,426 entries * 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost Canadian carriers a total of \$12,373 (= 12,130 minutes * \$1.02/minute). Assuming it takes an average of 5 minutes to complete each of the 1,302 entries by the non-Canadian foreign fleet, it would take approximately 6,510 (= 1,302 entries * 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost non-Canadian foreign carriers a total of \$6,640 (= 6,510 minutes * \$1.02/minute).

The proposed rule also requires certification by the vessel's Master of each form. A Master would be equivalent to a Captain, with a wage rate of \$115 per hour, or \$1.92 per minute, using year 2006 rates. We assume it takes a Master 5 minutes to certify each form. Therefore, it costs \$9.60 for a Master to certify one form. Since each vessel certifies 24 forms per year, the cost of certification by the vessel's Master per vessel is \$230.40 (= 24 forms/vessel * \$9.60/form) annually. Since there are 55 U.S. vessels, the annual burden of the certification is 6,600 (= 5 minutes/form * 24 forms/vessel * 55 vessels) minutes, and the total annual cost of the certification is \$12,672 (= 6,600 minutes * \$1.92/minute) for the entire U.S. fleet. We assume it takes a Master of a Canadian vessel 5 minutes to certify each form. Therefore, it takes 1,815 (= 363 certifications * 5 minutes) minutes to

certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification by the Canadian fleet is \$3,485 (=1,815 minutes * \$1.92/minute). We assume it takes a Master of a non-Canadian foreign vessel 5 minutes to certify each form. Therefore, it takes 930 (= 186 certifications * 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification for the fleet of non-Canadian foreign vessels is \$1,786 (= 930 minutes * \$1.92/minute).

In addition, we assume that it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 220 submissions per year, the total annual submission burden for the entire U.S. fleet is 1,100 minutes, or \$1,122 (= 1,100 minutes * \$1.02/minute), assuming submissions are done by a person comparable to a Lieutenant, with a wage rate of \$1.02 per minute, using year 2006 rates. We assume it takes each Canadian vessel 5 minutes to submit all completed forms for the quarter. Since there are 132 submissions per year, the total annual submission burden for the entire fleet of Canadian vessels is 660 minutes, or \$673 (= 660 minutes * \$1.02/minute). We assume it takes each non-Canadian foreign vessel 5 minutes to submit all completed forms for the quarter. Since there are 744 submissions per year, the total annual submission burden for the entire fleet of non-Canadian foreign vessels is 3,720 minutes, or \$3,794 (= 3,720 minutes * \$1.02/minute).

Estimate of Total Annual Burden: We estimate that the total annual time burden for the U.S. fleet that would result from the collection of information is 53,075 (= 45,375 recording minutes + 6,600 Master certification minutes + 1,100 submission minutes) minutes, and the total annual cost burden is \$60,077 (= \$46,283 recording cost + \$12,672 Master certification cost + \$1,122 submission cost) for the entire fleet. The annual burden per vessel is approximately \$1,092.31 (= \$60,077 total annual cost ÷ 55 vessels).

We estimate that the total annual time burden of the recordkeeping requirement is 14,605 (= 12,130 recording minutes + 1,815 Master certification minutes + 660 submission minutes) minutes and that the total annual cost of the recordkeeping requirement to Canadian carriers is \$16,531 (= \$12,373 recording cost + \$3,485 Master certification cost + \$673 submission cost). We estimate that the total annual time burden of the recordkeeping requirement for non-Canadian foreign carriers is 11,160 (=

6,510 recording minutes + 930 Master certification minutes + 3,720 submission minutes) minutes and that the total annual cost of the recordkeeping requirement to non-Canadian foreign carriers is \$12,220 (= \$6,640 recording cost + \$1,786 Master certification cost + \$3,794 submission cost). Therefore, we estimate that the total annual time burden of the recordkeeping requirement to foreign carriers is 25,765 (= 14,605 minutes for Canadian carriers + 11,160 minutes for non-Canadian foreign carriers) minutes and that the total annual cost of the recordkeeping requirement to foreign carriers is \$28,751 (= \$16,531 cost to Canadian carriers + \$12,220 cost to non-Canadian foreign carriers).

Paperwork Reduction Act. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to OMB for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection. We specifically ask you to comment on whether you think voluntary recordkeeping would be better than requiring recordkeeping, and if so, why. If you prefer voluntary recordkeeping, would you be willing to report voluntarily each quarter using the proposed Coast Guard form?

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**. To ensure that the comments on collection of information are received by OMB on time, the preferred method is by e-mail at aira_submission@omb.eop.gov subject line ATTN: Desk Officer, DHS-USCG or fax at 202-395-6566, ATTN: Desk Officer, DHS-USCG. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, DHS-USCG.

You need not respond to a collection of information unless we have published a currently valid control number from OMB for that collection in the **Federal Register**. Before the

requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection. If OMB approves the collection, our publication of that control number in the **Federal Register** or the CFR will constitute display of that number; see 5 CFR 1320.3(f)(3), as required under 44 U.S.C. 3506(c)(1)(B).

The No-Action Alternative would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Commandant Instruction

M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). A draft "Environmental Impact Statement" (EIS) is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. We encourage the public to submit comments on the draft EIS.

List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 151 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

Subpart A—Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as It Pertains to Pollution From Ships

1. The authority citation for part 151 is revised to read as follows:

Authority: 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

2. Revise § 151.66 to read as follows:

§ 151.66 Operating requirements: Discharge of garbage in the Great Lakes and other navigable waters.

(a) Except as otherwise provided in this section, no person on board any ship may discharge garbage into the navigable waters of the United States.

(b) On the United States' waters of the Great Lakes, commercial ships, excluding non-self propelled barges, may discharge bulk dry cargo residues in accordance with this paragraph and paragraph (c) of this section. Owners and operators of ships to which these paragraphs apply are encouraged to minimize the volume of dry cargo residues discharged through the use of suitable residue control measures onboard and by loading and unloading

cargo at facilities that use suitable shoreside residue control measures. As used in Table 151.66(b):

Bulk dry cargo residues means non-hazardous and non-toxic residues of dry cargo carried in bulk, including limestone and other clean stone, iron ore, coal, salt, and cement. It does not include residues of any substance known to be toxic or hazardous, such as, nickel, copper, zinc, lead, or materials classified as hazardous in provisions of law or treaty;

Caribou Island and Southwest Bank Protection Area means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 47°30.0' N, 85°50.0' W; 47°24.2' N, 85°38.5' W; 47°04.0' N, 85°49.0' W; 47°05.7' N, 85°59.0' W; 47°18.1' N, 86°05.0' W;

Mile means a statute mile, and refers to the distance from the nearest land or island;

Milwaukee Mid-Lake Special Protection Area means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 43°27.0' N, 87°14.0' W; 43°21.2' N, 87°02.3' W; 43°03.3' N, 87°04.8' W; 42°57.5' N, 87°21.0' W; 43°16.0' N, 87°39.8' W;

Six Fathom Scarp Mid-Lake Special Protection Area means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 44°55' N, 82°33' W; 44°47' N, 82°18' W; 44°39' N, 82°13' W; 44°27' N, 82°13' W; 44°27' N, 82°20' W; 44°17' N, 82°25' W; 44°17' N, 82°30' W; 44°28' N, 82°40' W; 44°51' N, 82°44' W; 44°53' N, 82°44' W; 44°54' N, 82°40' W;

Waukegan Special Protection Area means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 42°24.3' N, 87°29.3' W; 42°13.0' N, 87°25.1' W; 42°12.2' N, 87°29.1' W; 42°18.1' N, 87°33.1' W; 42°24.1' N, 87°32.0' W; and

Western Basin means that portion of Lake Erie west of a line due south from Point Pelee.

TABLE 151.66(B).—BULK DRY CARGO RESIDUE DISCHARGES ALLOWED ON THE GREAT LAKES

Location	Cargo	Discharge allowed except as noted
Tributaries, their connecting rivers, and St. Lawrence River.	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
	All other cargos	Prohibited.
Lake Ontario	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
	Iron ore	Prohibited within 6 miles.
Lake Erie	All other cargos	Prohibited within 13.8 miles.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin except for vessels operating exclusively within Western Basin.
	Iron ore	Prohibited within 6 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin, except that a vessel may incidentally discharge its cargo over the dredged navigation channels between Toledo Harbor Light and Detroit River Light if it unloads in Toledo or Detroit and immediately thereafter loads new cargo in Toledo, Detroit, or Windsor.
	Coal, salt	Prohibited within 13.8 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin, except that a vessel may incidentally discharge its cargo over the dredge navigation channels between Toledo Harbor Light and Detroit River Light if it unloads in Toledo or Detroit and immediately thereafter loads new cargo in Toledo, Detroit, or Windsor.
Lake St. Clair	All other cargos	Prohibited within 13.8 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
Lake Huron except Six Fathom Scarp Mid-Lake Special Protection Area.	All other cargos	Prohibited.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited in the Thunder Bay National Marine Sanctuary.
Lake Huron except Six Fathom Scarp Mid-Lake Special Protection Area.	Iron ore	Prohibited within 6 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary; prohibited for vessels up bound along the Michigan thumb as follows: (a) Between 5.8 miles northeast of entrance buoys 11 and 12 to the track line turn abeam of Harbor Beach, prohibited within 3 miles; and (b) For vessels bound for Saginaw Bay only, between the track line turn abeam of harbor Beach and 4 nautical miles northeast of Point Aux Barques Light, prohibited within 4 miles and not less than 10 fathoms of depth.
	Coal, salt	Prohibited within 13.8 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary; prohibited for vessels up bound from Alpena into ports along the Michigan shore south of Forty Mile Point within 4 miles and not less than 10 fathoms of depth.
	All other cargos	Prohibited within 13.8 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary.
Lake Michigan	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas; prohibited within the Northern Refuge; prohibited within Green Bay except for vessels operating exclusively within Green Bay.
	Iron ore	Prohibited in the Northern Refuge; north of 45° N, prohibited within 12 miles and in Green Bay; south of 45° N, prohibited within 6 miles, and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay; except that discharges are allowed at: (a) 4.75 nautical miles off Big Sable Point Betsie, along established LVA track lines; and (b) Along 056.25° LCA track line between due east of Poverty Island to a point due south of Port Inland Light.
	Coal	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay; except that discharges are allowed: (a) Along 013.5° LCA track line between 45° N and Boulder Reef, and along 022.5° LCA track running 23.25 miles between Boulder Reef and the charted position of Red Buoy #2; (b) Along 037° LCA track line between 45°20' N and 45°42' N; (c) Along 056.25° LCA track line between points due east of Poverty Island to a point due south of Port Inland Light; and (d) At 3 nautical miles for coal carried between Mainstee and Ludington along customary route.
	Salt	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay.
	All other cargos	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay.

TABLE 151.66(B).—BULK DRY CARGO RESIDUE DISCHARGES ALLOWED ON THE GREAT LAKES—Continued

Location	Cargo	Discharge allowed except as noted
Lake Superior	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Iron ore	Prohibited within 6 miles (within 3 miles off northwestern shore between Duluth and Grand Marais); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Coal, salt	Prohibited within 13.8 miles (within 3 miles off northwestern shore between Duluth and Grand Marais); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Cement	Prohibited within 13.8 miles (within 3 miles offshore west of a line due north from Bark Point); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	All other cargos	Prohibited within 13.8 miles; and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.

(c)(1) The master, owner, operator, or person in charge of any commercial ship loading, unloading, or discharging bulk dry cargo in the United States' waters of the Great Lakes and the master, owner, operator, or person in charge of a U.S. commercial ship transporting bulk dry cargo and operating anywhere on the Great Lakes, excluding non-self propelled barges, must ensure that a written record is maintained on the ship that fully and accurately records information on:

(i) Each loading or unloading operation on the United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes, involving bulk dry cargo; and

(ii) Each discharge of bulk dry cargo residue that takes place in United States' waters, or in the case of U.S. commercial ships on any waters, of the Great Lakes.

(2) For each loading or unloading operation, the record must describe:

- (i) The date of the operation;
- (ii) Whether the operation involved loading or unloading;
- (iii) The name of the loading or unloading facility;
- (iv) The type of bulk dry cargo loaded or unloaded;

(v) The method or methods used to control the amount of bulk dry cargo residue, either onboard the ship or at the facility;

(vi) The time spent to implement methods for controlling the amount of bulk dry cargo residue; and

(vii) The estimated volume of bulk dry cargo residue created by the loading or unloading operation that is to be discharged.

(3) For each discharge, the record must describe:

(i) The date and time the discharge started, and the date and time the discharge ended;

(ii) The ship's position, in latitude and longitude, when the discharge started and when the discharge ended; and

(iii) The ship's speed during the discharge.

(4) Records must be kept on Coast Guard Form CG-33, a facsimile of which appears below as Form 151.66(c). The records must be certified by the master, owner, operator, or person in charge and kept in written form onboard the ship for at least two years. Copies of the records must be forwarded to the Coast Guard at least once each quarter, no later than the 15th day of January, April, July, and October. The record copies must be provided to the Coast Guard using only one of the following means:

(i) E-mail to DCRRecordkeeping@USCG.mil;

(ii) Fax to (202) 372-1926; or

(iii) Mail to U.S. Coast Guard: Commandant (CG-522), ATTN: DCR RECORDKEEPING, CGHQ Room 1210, 2100 Second Street, SW., Washington, DC 20593-0001.

BILLING CODE 4910-15-P

Form 151.66(c): Great Lakes Bulk Dry Cargo Residue Reporting Form.

U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-33 Rev. (02-08)		BULK DRY CARGO RESIDUE REPORTING FORM						OMB Number 1625-0072 Expires:					
MASTER'S CERTIFICATION:							OFFICIAL/IMO NO.						
For Cargo Loading & Unloading Operations							VESSEL NAME:						
For Residue Sweeping Operations Only													
Date	Cargo Involved ¹	Operation (check one)		Facility Name	Control Measures Used (see list of codes)		Time Spent to Implement Control Measure (hrs)	Estimated Residue to be Swept into Water (m ³)	Sweeping Start		Sweeping Stop		Vessel Speed (kts)
		Load	Unload		Facility				Date/Time(D/T) Ship's Position (Lat/Long)		Date/Time(D/T) Ship's Position (Lat/Long)		
					Facility	Vessel							
									D/T:	D/T:			
									Lat:	Lat:			
									Long:	Long:			
									D/T:	D/T:			
									Lat:	Lat:			
									Long:	Long:			
									D/T:	D/T:			
									Lat:	Lat:			
									Long:	Long:			
									D/T:	D/T:			
									Lat:	Lat:			
									Long:	Long:			

Please see footnotes on next page

Remarks:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 15 minutes. You may submit any comments concerning the accuracy of this estimate or any suggestions for reducing the burden to: Commandant (CG-5232), U.S. Coast Guard Room 1400, 2109 Second Street SW, Washington, D.C. 20593-0301
U.S. Dept. of Homeland Security, USCG, CG-33, Rev. (02-08)

Reset.

NOTES:

¹ **Cargo Involved:** Provide the common name of the cargo (e.g., coal, taconite, sand, limestone, grain, salt, etc.)

When multiple cargo types are discharged, please create a separate entry for each type

² **Control Measures:** Enter the code(s) below for each dry cargo residue control measure(s) used during cargo handling operations. Return to Form for both cargo facilities (if known), and for your vessel.

Cargo Involved	Facility Control Measures	
	Code	Measure
	A	Enclosed conveyor
iron ore	B	Troughed conveyor
taconite	C	Conveyor skirts
scale	D	Belt Scrapers
coal/coke	E	Water/mist for dust control
grain	F	Conveyor capacity indicators
seed	G	Deck remote controls of conveyors
wood pulp	H	Stop conveyor while ship or belt is repositioned
potash	I	Delay loading/unloading during high wind
fertilizer	J	Radio Communication between deck and loader
limestone	K	Crew training on procedures to reduce residue
sand/gravel	L	Limit vertical angle of conveyor boom
dolomite	M	Plov feeder
clay	N	Loading chute, incl. Telescoping or conveyors
aggregates	O	Chemical surfactants
salt	P	Suction pumped cargo, slurry transport, pneumatic or screw conveyors
gypsum		
cement	Q	Other (describe measure on "Remarks" line on front of form)
Other		

Vessel Control Measures	
Code	Measure
1	Enclosed conveyor
2	Troughed conveyor
3	Conveyor skirts
4	Belt Scrapers
5	Water/mist for dust control
6	Conveyor capacity indicators
7	Deck remote controls of conveyors
8	Stop conveyor while ship or belt is repositioned
9	Delay loading/unloading during high wind
10	Radio Communication between deck and loader
11	Crew training on procedures to reduce residue
12	Limit vertical angle of conveyor boom
13	Broom & shovel (to return to hold or shore)
14	Tarps to collect residue (to return to hold or shore)
15	Cargo hold vibrator
16	Watertight gate seal
17	Cargo hold lining (teflon or kevlar)
18	Minimize hatch removal during poor weather
19	Careful cargo hold gate operation
20	Other (describe measure on "Remarks" line on front of form)

Cargo	Density (lbs./ft ³)	Equivalent Volume for 350 lbs. of DCR	Volume in m ³
Coal	50	7 ft ³	0.2
Limestone	150	2.3 ft ³	0.07
Taconite	222	1.6 ft ³	0.05

Note: One 5 gallon bucket is equivalent to 0.019m³

Dated: May 14, 2008.

Dana A. Goward,

Acting Assistant Commandant for Marine, Safety, Security and Stewardship, U.S. Coast Guard.

[FR Doc. E8-11343 Filed 5-22-08; 8:45 am]

BILLING CODE 4910-15-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2006-0306; FRL-8570-7]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM-10; Revision of Designation; Redesignation of the San Joaquin Valley Air Basin PM-10 Nonattainment Area to Attainment; Approval of PM-10 Maintenance Plan for the San Joaquin Valley Air Basin; Approval of Commitments for the East Kern PM-10 Nonattainment Area; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: EPA is extending the public comment period for the proposed rule

entitled "Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM-10; Revision of Designation; Redesignation of the San Joaquin Valley Air Basin PM-10 Nonattainment Area to Attainment; Approval of PM-10 Maintenance Plan for the San Joaquin Valley Air Basin; Approval of Commitments for the East Kern PM-10 Nonattainment Area." The proposed rule was published on April 25, 2008 (73 FR 22307). The State of California has since provided technical corrections to the motor vehicle emissions budgets in the 2007 San Joaquin Valley PM-10 Maintenance Plan that EPA is proposing to approve. EPA believes the technical corrections are minor and do not impact other aspects of the April 25, 2008 proposal. EPA is extending the public comment period for the proposed rule until June 10, 2008 in order to provide the public with the opportunity to consider these technical corrections.

DATES: The public comment period for this proposed rule is extended until June 10, 2007.

ADDRESSES: Submit your comments, identified by docket number EPA-R09-OAR-2006-0306, by one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *E-mail:* lo.doris@epa.gov.

(3) *Mail or deliver:* Doris Lo (AIR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While

Draft EIS Comments

Each comment submission was assigned a unique Tracking Number. If a submission was determined to have more than one comment, each was designated by a letter. For example, three comments from comment submission 12 would be labeled 012a, 012b, and 012c. Comments are noted with arrows added to the comment submissions in this appendix.

This tracking system is used in the comment-response table in Appendix V, where comments are summarized and replied to.

PUBLIC SUBMISSION

As of: June 06, 2008
Tracking No. 805fb22c
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0034](#)

Anonymous

Submitter Information

Name: Anonymous

Address:

NJ,

General Comment

← 001a
NO PROFITEERS SHOULD BE ALLOWED TO DUMP ANYTHING INTO THE GREAT LAKES. IT IS CLEAR THAT IS WHY THEY HAVE BECOME SO CONTAMINATED. NO DUMPING IN THE LAKES AT ALL SHOULD HAVE BEEN THE REGULATION IN EFFECT FOR YEARS NOW. WHERE DID THE COAST GUARD GET OFF LETTING THESE PROFITEERS DUMP WHERE THEY WISH AND WITH NOBODY WATCHING TO SEE WHAT IS DUMPED. THIS WHOLE 001b PROCESS NEEDS TO BE MADE ILLEGAL. ~~IF~~ THE SHIPPING PROFITEERS HAVE ANYTHING TO DUMP, BRING TO LAND AND LET IT BE INSPECTED BY HONEST INSPECTORS. OF COURSE WE HAVE INSPECTORS WHO CAN BE BRIBED SO THE INSPECTORS ALWAYS HAVE TO BE CHECKED OUT EVERY YEAR TO SEE IF THEY ARE STILL HONEST.

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 80627c69
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0061](#)

D. Heaton

Submitter Information

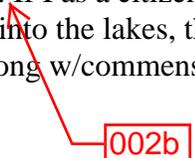
Name: D. Heaton

Address:

2328 Sheffield Drive
Kalamazoo, MI, 49008-1708

General Comment

 I fully appreciate to cargo residue is a very small % of the tonnage moved on the Great Lakes. However, it is our obligations as stewards of the Gr. Lk. as resources for all - forever - to see that as little waste, including non-toxic, end up in the lakes. If I as a citizen can be fined up to \$50,000 for throwing household trash into the lakes, the commercial carriers should be held to same expectations - along w/commensurately proportional fines

 002b

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 80627a93
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0060](#)

Lyda Stillwell

Submitter Information

Name: Lyda Stillwell

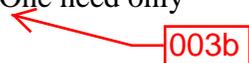
Address:

2337 Tipperary Road
Kalamzoo, MI, 49008

General Comment

 Please do NOT allow cargo sweeping into the Great Lakes!

While it surely is an "inexpensive and quick way to clean ships" it is NOT a way to continue to protect and preserve the Lakes! In the long run it can be harmful! One need only to think about ballast waters and the many invasive species which have caused enormous problems!

 003b

Thank you.

Lyda Stillwell

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 8062640c
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0059](#)

Anne L. Fuller

Submitter Information

Name: Anne L Fuller

Address:

4954 South Sheridan
Muskegon, MI, 49444-4550

General Comment

004a
I would like to express my opinion on the continuation of the dumping of dry cargo into the Great Lakes as has been allowed with proposal USCG-2004-19621. I would like to see this practice discontinued at the expiration of this permission time in September of 2008. I do not think this is of a benefit to the environmental quality of the waters of the State of Michigan or any of the surrounding States or Canada. My personal opinion is to ban the use of these freighters on the Great Lakes period, however, that is another issue and is not covered in the scope of this ruling. 004b
They have already introduced alien species to the Great Lakes to the detriment of our own fish, ecosystem and water quality. 004c
I can not imagine dumping iron ore, limestone, coal and especially salt are of any benefit to the waterways, the environment and the ecosystem that live in these waters. We suffer enough pollution from our own use and misuse of our land and waters, we don't need foreign assistance in this matter.

As the taxpayers of these States and Countries surrounding the Great Lakes have already experienced a substantial increase financially as well as environmentally in the need to protect the existing waters from the alien species, we do not need substances foreign to the waters dumped in there. 004d

004d
Supposedly these shippers claim this ban would be catastrophic to their industry, who is going to clean this up if indeed their claims this dumping has minor side effects is not correct? What else are they going to say? 'Oh yes, we are polluting the devil out of your waterways, but, please let us continue to

ruin your ecosystem so our business will continue to profit.' I don't think this is the proper manner to handle such a questionable practice. Especially, in light of the fact there is a viable way to clear their decks without having to dump their waste into our Lakes, via simple housekeeping. Sweeping/shoveling the decks is a much better way to handle this issue.

004e

The proposed policy would 'encourage' companies to reduce the amount of dry cargo. What is that statement? Who is going to monitor their records as to what they dump, how much, and where? This would require extra funding, would it not? Where would that come from? There is no 'stake' in not dumping these companies dry cargo, no incentive not to do so, why should they bother?

I continue to feel this is a bad practice that was basically railroaded through previously and should not be allowed to continue with total disregard to the environment. The burden of proof should be upon these companies, by unbiased research agencies NOT funded by the companies. I vote to not allow this practice to continue.

Thank you, respectfully, Anne L. Fuller

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 8062979d
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0062](#)

Priscilla M. McDougal

Submitter Information

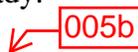
Name: Priscilla M McDougal

Address:

200 Woodwind Circle
Kalamazoo, MI, 49006

General Comment

 I second Anne Fuller's letter. I cannot say it better. This dumping should no longer be allowed in Lake Michigan which is all but dead already.

Michigan is surrounded by one fifth of the world's fresh water.  When it turns to salt and is totally polluted, we are all dead.

Priscilla McDougal

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 8062c121
Comments Due: December 27, 2004
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0064](#)

Thomas and Suzanne Frosch

Submitter Information

Name: Thomas R Forsch

Address:

2845 Ramblewood Drive

Kalamazoo, MI, 49009

Email: stforsch@sbcglobal.net

Phone: 269-353-3903

General Comment

↙ **006a**

It is easy to forget the fragile nature of the Great Lakes and is becoming more and more apparant as we continue to destroy the previous pristine nature of our heritage. If the United States, the adjoining Great Lake States, Canada and its adjoining Great Lakes Provinces do not act NOW to stop the continued pollution of our shared waterways, there will be a time in the not so distant future that these lakes will essentially be dead.

↙ **006b**

The US government must take control by ending the polluting of the lakes. Stop permitting the washing of residues from ship decks into the Great Lakes. These companies-both domestic and foreign-care only about avoiding the added cost of cleaning their ship decks by other means. They do not care about "Our" waters! The United States cannot display a bias towards US and international companies rather than forcing the elimination of deck washing.

Please let the interim dumping policy approved in 1993 by Congress and the Coast Guard expire. Do not allow three more years of unnecessary pollution while a "study" is completed. Return to the sensible international treaty prohibiting ships from dumping ALL wastes into the Great Lakes. Don't wait until our Great Lakes are polluted and then try to fix the problem. It will be too late!

This should only be the first step in the reversal of the cleaning up of the Great Lakes.

We must protect the Great Lakes for future generations.

Sincerely,

Thomas & Suzanne Forsch

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 8062bb75
Comments Due: December 27, 2004
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0063](#)

Susan Wiltse

Submitter Information

Name: Susan Wiltse

Address:

8382 South 34th Street
Scotts, MI, 49088

General Comment

007a

The foundation of our government is supposed to be of, for and by the people (as in individuals, not corporations). When we even allow consideration of such petitions (to allow dumping of coal, salt, iron dust, etc into our Great Lakes from the decks of freighters carrying such cargo), it is obvious that the people are no longer running their government. I don't think many people in Michigan want our state denigrated or abused any more than it already has been. Please let's have some common sense and integrity, and live respectfully upon the land and water we occupy at this time. Let's treat everyone and everything as we would like to be treated.

PUBLIC SUBMISSION

As of: June 20, 2008
Tracking No. 8062f260
Comments Due: July 22, 2008
Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0065](#)

Leech Lake Band of Ojibwe

Submitter Information

Name: Gina M Lemon

Address:

115 Sixth Street, North West

Suite E

Class Lake, MN, 56633

Organization: Leech Lake Band of Ojibwe

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0065](#) Leech Lake Band of Ojibwe

Leech Lake Band of Ojibwe



George Goggeye, Chairman
Arthur "Archie" LaRose, Secretary/Treasurer

District I Representative
Robbie Howe

District II Representative
Lyman L. Losh

District III Representative
Donald "Mick" Finn

June 12, 2008

Docket Management Facility, M-30
US Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590-0001

DEPT. OF TRANSPORTATION
DOCKETS
2008 JUN 19 A 9:14

RE: **Proposed USCG Dry Cargo Residue Discharges in the Great Lakes**
Docket Number USCG-2004-19261
LL-THPO Number: 08-104-NCRI

To Whom It May Concern:

Thank you for the opportunity to comment on the above-referenced project. It has been reviewed pursuant to the responsibilities given the Tribal Historic Preservation Officer (THPO) by the National Historic Preservation Act of 1966, as amended in 1992 and the Procedures of the Advisory Council on Historic Preservation (38CFR800).

✓ 008a

I have reviewed the documentation; after careful consideration of our records, I have determined that the Leech Lake Band of Ojibwe does not have any concerns regarding sites of religious or cultural importance in this area.

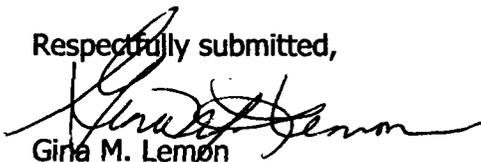
✓ 008b

Should any human remains or suspected human remains be encountered, all work shall cease and the following personnel should be notified immediately in this order: County Sheriff's Office and Office of the State Archaeologist. If any human remains or culturally affiliated objects be inadvertently discovered this will prompt the process to which the Band will become informed.

Please note: The above determination does not "exempt" future projects from Section 106 review. In the event of any other tribe notifying us of concerns for a specific project, we may re-enter into the consultation process.

You may contact me at (218) 335-2940 if you have questions regarding our review of this project. Please refer to the LL-THPO Number as stated above in all correspondence with this project.

Respectfully submitted,


Gina M. Lemon
Tribal Historic Preservation Officer

Leech Lake Tribal Historic Preservation Office * Established in 1996

An office within the Division of Resource Management
115 Sixth Street NW, Suite E * Cass Lake, Minnesota 56633
(218) 335-2940 * FAX (218) 335-2974
llthpo@hotmail.com or www.nathpo.org

PUBLIC SUBMISSION

As of: June 30, 2008 Tracking No. 8063a762 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0066](#)

Gail Krantzberg

Submitter Information

Name: Gail Krantzberg

Address:

McMaster University
1280 Main Street West
Hamilton, Ontario, Canada, l8s 1k4

General Comment

009a

I understand that the Coast Guard preferred option is to make the interim enforcement policy permanent and add standardized mandatory reporting requirements.

The EIS analysis shows that more modern equipment and practices may greatly reduce the amount of cargo residue spilled. Nevertheless, the recommended option does not provide incentives to adopt best management practices. I believe that eliminating lost cargo would represent good business practices and demonstrate corporate responsibility. We cannot afford to assume that over time, industry will voluntarily adopt modern methods, install new equipment and eliminate discharges.

Instituting a code of best practices aimed at minimizing bulk cargo loss, measuring compliance with the code and tracking results would provide a pathway to virtual elimination. The goal is to minimize stress on the environment and to safely and economically eliminate bulk cargo loss rather than minimizing the incentive for industry to improve operations as a result of the proposed preferred option.

PUBLIC SUBMISSION

As of: July 08, 2008 Tracking No. 80651243 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0067](#)

Jacqueline Ladwein

Submitter Information

Name: Jacqueline Ladwein

Address:

1201 54th Street
Fennville, MI, 49408

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0067](#) Jacqueline Ladwein

June 26, 2008

Docket Management Facility(M-30}
U.S. Department of Transportation
West Building Ground Floor
Room W1200
New Jersey Ave. SW
Washington, D.C. 20590-0001

DEPT. OF TRANSPORTATION
DOCKETS

2008 JUL -2 A 10: 49

Dear Sir:

↙ 010a

How long will you continue to allow the poisoning of our Great Lakes? Ordinary people are able to see the damage being wrought on our largest bodies of fresh water. I'm a 69-year-old retired elementary teacher who can see how wrong it is to continue to allow this dumping. It's like refusing for years to see that smoking caused cancer or that oil will not last forever so we need alternative fuels. How long did it take the people in charge to "get" those two concepts when ordinary people "got" them long ago. It seems the experts can't see the forest for the trees or maybe it's just easier for them not to.

The experts (Coast Guard) will be the last to determine that what's going into our Great Lakes is poisoning them. How long must this go on before the Coast Guard wakes up to the fact that they're killing this fresh water wonder? Will it then be too late for our Great Lakes to recover?

↙ 010b

Do the right thing now!!! Crews can sweep and shovel the material. It's just easier to wash it into the lakes. Well, the right thing to do is not always the easiest thing to do. The right thing to do here is not that hard (sweep and shovel). Let's show some guts here! Let's do the right thing now not 10 to 15 years down the road when it could very well be too late.

Sincerely,

Jacqueline Ladwein
Jacqueline Ladwein
1201 54th Street
Fennville, MI. 49408

PUBLIC SUBMISSION

As of: July 11, 2008 Tracking No. 80660ace Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0068](#)

Lyn H. James

Submitter Information

Name: Lyn H James

Address:

5187 East FG Avenue
Kalamazoo, MI, 49004

General Comment

011a

I recently returned from vacation to Leelanau Peninsula in Michigan, the area and views were spectacular, till you looked down at your feet.

The beaches are littered for miles with all sorts of human debris, including pieces of black coal. There is also stinking areas of green algae everywhere!

011b

Then I read in the newspaper that there is a federal law and international treaty that prohibits ships from dumping waste into the great lakes, but a 1993 intermin policy by the Coast Guard and Congress allows freighters to wash "non-toxic" cargo residues off ships and into the Great Lakes after leaving port.

THIS PRACTICE MUST STOP!

ALLOW NO DUMPING OR BALLAST DISCHARGE OF ANY TYPE IN ANY OF THE GREAT LAKES!

PUBLIC SUBMISSION

As of: July 11, 2008 Tracking No. 80664e0f Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0070](#)

Steve W. Trofimchuk

Submitter Information

Name: Steve W Trofimchuk

Address:

Amanda Place
Mississauga, Ontario, Canada, L5M 6C3

General Comment

↙ 012a

I am a Canadian citizen who believes that people be they Americans or Canadians have a moral obligations to treat with respect and care the precious gift we have known as the Great Lakes. Other countries would kill to have such a natural resource bestowed upon them. The 1993 policy by the Coast Guard and Congress allows freighters to wash "non-toxic" cargo residues off ships and into the Great Lakes after leaving port.

THIS PRACTICE MUST STOP!

ALLOW NO DUMPING OR BALLAST DISCHARGE OF ANY TYPE IN ANY OF THE GREAT LAKES! What short sighted strategy is this? Water is the most precious natural resource we have and laziness is no excuss for this poisoning.

PUBLIC SUBMISSION

As of: July 11, 2008 Tracking No. 80664829 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0071](#)

Christine C. Ballard

Submitter Information

Name: Christine C Ballard

Address:

6839 Orchard Meadow Drive
Portage, MI,

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0071](#) Christine C. Ballard

DEPT. OF TRANSPORTATION
6839 Orchard Meadow Dr. DOCKETS
Portage MI 49024
July 3, 2008

2008 JUL 10 A 9:59

Dear Coast Guard,
Docket Management Facility (M-30)

↙ 013a Our Great Lakes are in substantial danger from many sources. ↙ 013b **Please put an end to freighters washing cargo residue in the Great Lakes.** This is but one small step, but it is a significant one and shows we CARE!

Thank you.



Christine C. Ballard

PUBLIC SUBMISSION

As of: July 11, 2008 Tracking No. 80662253 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0058](#)

Dry Cargo Residue Discharges in the Great Lakes; Notice of Public Meeting

Document: [USCG-2004-19621-0069](#)

Lynn S. Contos

Submitter Information

Name: Lynn S Contos

Address:

5779 Lamplighter Lane
Kalamazoo, NY, 49009

General Comment

↙ 014a

Please let common sense prevail and ban dumping ANY kind of pollution in the precious Great Lakes! Without clean water, we perish.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668ce4 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0081](#)

Christine Aiello

Submitter Information

Name: Christine Aiello

Address:

Haslett, MI,

General Comment

← **015a**

The Coast Guard's proposed rule is illegal, because dry cargo residues fall under the description of garbage in domestic and international law and are thus prohibited to be dumped into inland waters. The Coast Guard should be developing rules that set standards and deadlines to virtually eliminate dry cargo dumping, to protect the Great Lakes- St. Lawrence River ecosystem and comply with the law!

← **015b**

Furthermore, many of the cargo residues -- especially iron ore and taconite -- contain mercury and other toxic metals that can harm natural habitats in the lakebeds, as well as the people who eat fish contaminated by the metals. Clearly this is not the direction we want to go in with a resource as valuable as the Great Lakes.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 806692f4 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0083](#)

Wes Knollenberg

Submitter Information

Name: Wes Knollenberg

Address:

11709 Letches Lane
Delton, MI, 49046

General Comment

← **016a**

Do not permit the dumping of cargo (such as limestone, iron ore, coal, and grain) and/or garbage from commercial vessels into the Great Lakes. The Coast Guard should be working towards preventing the discharge of pollutants into our waters. I count on the Coast Guard to maintain the highest environmental standards.

→ **016b**

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666b38 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0077](#)

Ruth F. Watts

Submitter Information

Name: Ruth F Watts

Address:

1515 N Astor
Chi, IL, 60610

General Comment

← 017a

Why do we want ships to dump their leftovers in our Great Lakes? Just leave it in the hold. Pack it in and pack it out. What harm is there in this solution?-Ruth Watts

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668c59 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0082](#)

Anne M. Boggio

Submitter Information

Name: Anne M Boggio

Address:

Eagle Harbor, MI, 49950

General Comment

← 018a

No dumping should be allowed in the Great Lakes. It is a travesty to spoil such a great treasure.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668650 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0079](#)

Jaclyn Smith

Submitter Information

Name: Jaclyn Smith

Address:

Chicago, IL, 60618

General Comment

← **019a**

Allowing ships to dump potentially harmful cargo residues into the Great Lakes, a practice that sends about 550 tons of coal, limestone, iron ore and taconite into their waters annually, will continue to destroy an already fragile eco system.

← **019b**

The Coast Guard's interim enforcement policy, in place since 1997, has allowed ships to sweep their waste cargo residues to the bottom of the Great Lakes and much of the St. Lawrence River Basin. Many of the cargo residues -- especially iron ore and taconite -- contain mercury and other toxic metals that can harm natural habitats in the lakebeds, as well as people who eat fish contaminated by the metals. This cannot continue.

← **019c**

I vote no in allowing the dumping of potentially harmful cargo residues into the Great Lakes.

Thank you.

Jaclyn Smith

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666c37 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0075](#)

A.A.

Submitter Information

Name: A. A.

Address:

Elgin, IL,

General Comment

← [020a](#)

Why is there a Coast Guard policy allowing ships to dump potentially harmful cargo residues into the Great Lakes (550 tons of coal, limestone, iron ore and taconite) each year? I'm curious what is being done to protect lives. Please respond.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668a2a Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0080](#)

Julie E. Kelso

Submitter Information

Name: Julie E Kelso

Address:

1041 N Wood
Chicago, IL, 60622

Submitter's Representative: Luis G. Gutierrez

Organization: Alliance for the Great Lakes

Government Agency Type: Federal

Government Agency: USCG

General Comment

← **021a**

The Coast Guard's interim enforcement policy, in place since 1997, has allowed ships to sweep their waste cargo residues to the bottom of the Great Lakes and much of the St. Lawrence River Basin. Many of the cargo residues -- especially iron ore and taconite -- contain mercury and other toxic metals that can harm natural habitats in the lakebeds, as well as people who eat fish contaminated by the metals.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666d04 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0073](#)

Kevin M. Baumgart

Submitter Information

Name: Kevin M Baumgart

Address:

1347 N Ashland #1N

Chicago, IL, 60622

General Comment

Docket No. USCG-2004-19621

← [022a](#)

I would like to say "no" to Great Lakes Cargo dumping

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666ec8 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0076](#)

Joanne Bollinger

Submitter Information

Name: Joanne L Bollinger

Address:

642 Pine Ridge Road
Eagle Harbor, MI, 49950

General Comment

← **023a**

I strongly oppose all dumping from boats into any of the Great Lakes. This is a practice that should never have been allowed and must be discontinued. Our water is our most important resource and to foul it with toxic materials is unconscionable.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668eb5 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0084](#)

Anne H. Salisbury

Submitter Information

Name: Anne H Salisbury

Address:

2690 Northridge Lane
Stillwater, MN, 55082

General Comment

← **024a**

← **024b**

Taconite is toxic, causes cancer in people and animals. Please do not dump taconite or taconite tailings into any of the great lakes.

Thanks you, Anne Salisbury

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666b35 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0078](#)

Lesley A. DuTemple

Submitter Information

Name: Lesley A DuTemple**Address:**

5223 Lake Shore Drive
 Eagle River, MI, 49950

General Comment

← **025a**

I would strongly urge you to ban all discharge from cargo ships in the Great Lakes, dry cargo and other. The Great Lakes are fast becoming the most precious resource in North America, in the world even, and everything possible should be done to protect them. Within this region, it is an accepted fact that the zebra mussel infestation came from ship discharges -- we do not need any more non-native species, nor pollution, in our waters. Please stop all cargo ships from discharging in the Great Lakes.

025b

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80668b62 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0085](#)

Anonymous

Submitter Information

Name: Anonymous

General Comment

 Please keep the lakes clean, do not allow dumping of this material in the lakes. 
 There would undoubtedly be new business created if regulations demand the safe removal of this material, which could also help the Great Lakes region economy.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 806679e9 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0072](#)

Cyndi Laird

Submitter Information

Name: Cyndi Laird

Address:

2581 Chatham Woods Drive SE
Grand Rapids, MI, 49546

General Comment

← 027a

Please stop allowing ships to dump their cargo residue into the Great Lakes.

They're a wonderful, beautiful natural resource that we are destroying. If we don't do something now to stop the destruction it will be too late. 027b The introduction of zebra mussels into the Great Lakes should be proof enough for anyone that allowing the dumping of any type of waste, whether it be cargo residue or ballast water, is a dangerous thing to do.

The Great Lakes have a tremendous impact on several states. Protecting them should be a major concern to everyone.

PUBLIC SUBMISSION

As of: July 13, 2008 Tracking No. 80666d2a Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0074](#)

Susan Knight

Submitter Information

Name: Susan Knight**Address:**

1302 South 101 Street
 Omaha, NE, 68124

Submitter's Representative: Lee Terry

General Comment

← **028a**

Docket # USCG - 2004 - 19621

← **028b**

I urge you to prevent cargo dumping in the Great Lakes. Continued stressors to the Great Lakes can cause rapid changes and unexpectedly create a potentially moribund situation. It takes my breath away that the Lakes, where I grew up, have changed irreparably within my lifetime. Every pollutant and stressor over which man has control must be kept out of the Great Lakes.

PUBLIC SUBMISSION

<p>As of: July 15, 2008 Tracking No. 80670306 Comments Due: July 22, 2008 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0086](#)

David D. Dunning

Submitter Information

Name: David D Dunning**Address:**

3335 E. Rocky Trail

Cedarville, MI, 49719

Organization: member Little Traverse Conservancy, Les Cheneaux Watershed

General Comment

← 029a

The existing regulation should be amended to ban all discharges. The current policy of allowing discharge is both unnecessary and is being abused by the lake freighters. It is my understanding that the current regulation requires the ship to be 5 1/2 miles off shore and this policy is being ignored.

I have enclosed pictures that I have taken of ships discharging while at the Limestone Dock in Cedarville, Mi. I took most of these pictures from my office window at my home on McKay Bay. The actual discharges looked worse than the pictures because I was not close enough for good camera work. These pictures were taken in 2006 & 2007.

The worst violation was the pictures from 7/26/07. The discharged material covered almost the entire bay. The water that normally allows seeing the bottom at 10' and more was so turbid that you could not see down more than a couple of inches.

The bottom of the bay is barren with almost no vegetation, minnows or crayfish and I can envision that this desertification is caused by this type of contamination. What happens to the vegetation and animal life when this discharged material settles on it? What happens to the PH of the water when these gross amounts of lime contaminate the bay?

These discharges are unnecessary because the limestone quarry has settling ponds that currently receive the fines from the crusher which is only a couple hundred feet from the ships. If it is desired to dump the limestone waste from the ships, the material could easily be pumped to the crusher for treatment. I suspect that these dumping practices are because "We've always done it that way" as opposed to actual necessity.

It is time for the Coast Guard to start GUARDING the interests of all of the people and stop acting as agents for the Lake Carrier's Assoc.

Thank You
Dave Dunning

Attachments

[USCG-2004-19621-0086.1](#) David D. Dunning
[USCG-2004-19621-0086.2](#) David D. Dunning
[USCG-2004-19621-0086.3](#) David D. Dunning
[USCG-2004-19621-0086.4](#) David D. Dunning
[USCG-2004-19621-0086.5](#) David D. Dunning
[USCG-2004-19621-0086.6](#) David D. Dunning
[USCG-2004-19621-0086.7](#) David D. Dunning
[USCG-2004-19621-0086.8](#) David D. Dunning
[USCG-2004-19621-0086.9](#) David D. Dunning
[USCG-2004-19621-0086.10](#) David D. Dunning





















PUBLIC SUBMISSION

As of: July 15, 2008 Tracking No. 80671d06 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0091](#)

Kelly A. Mitchell

Submitter Information

Name: Kelly A Mitchell

Address:

Marquette, MI, 49855

Organization: Organization for Outdoor Recreation Professionals-NMU

General Comment

← 030a

Dumping ANYTHING in the Great Lakes is bad....we scientifically proved it with Lake Erie in the 20th century....why ruin the most valuable commodity the western hemisphere has going for it.....after all, life needs clean water to survive!!!

PUBLIC SUBMISSION

As of: July 15, 2008 Tracking No. 8066ae19 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0090](#)

Deanna Hutchner

Submitter Information

Name: Deanna Hotchner**Address:**1220 Silver Pine Drive
Barrington, 60010**Submitter's Representative:** concerned citizen**Organization:** Ocean Conservancy

General Comment

← **031a**

The Coast Guard's interim enforcement policy, in place since 1997, has allowed ships to sweep their waste cargo residues to the bottom of the Great Lakes and much of the St.

Lawrence River Basin. Many of the cargo residues -- especially iron ore and taconite -- contain mercury and other toxic metals that can harm natural habitats in the lakebeds, as well as people who eat fish contaminated by the metals.

← **031b** **031c**

The environmental effects of cargo sweeping are largely unknown and the practice violates international agreements against dumping waste from ships. Congress recently ordered the Coast Guard to examine cargo sweeping and its effects.

It is my hope that Congress will find that cargo dumping is harmful to the environment and the people in the Great Lakes region. **031d** I would vote a resounding NO to cargo dumping!

PUBLIC SUBMISSION

As of: July 15, 2008 Tracking No. 8066bb87 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0088](#)

Erin M. Smith

Submitter Information

Name: Erin M Smith

Address:

2193 N. Farmers Block Road
Allouez, MI, 49805

General Comment

← [032a](#)

Please do not permit cargo sweeping in the Great Lakes. Ask businesses to take responsibility for their waste and protect our important natural resources.

Thank you.

PUBLIC SUBMISSION

As of: July 15, 2008 Tracking No. 8066f5be Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0087](#)

Rosemary Grier

Submitter Information

Name: Rosemary Grier

Address:

15621 Donken Road
Pelkie, MI, 49958

Government Agency Type: Federal

Government Agency: USCG

General Comment

← **033a**

Dry cargo residues should not be dumped in the Great Lakes and St. Lawrence River, as it falls under the description of garbage and is in violation of the domestic and international law.

033b

← The Coast Guard needs to develop rules to set standards and deadlines to eliminate the dry cargo dumping into the Great Lakes system. This US government body needs to be a leader in helping to protect our precious fresh water system.

Our world needs GOVERNMENT LEADERSHIP in the area of planetary protection.

Thank you,
Rosemary Grier

PUBLIC SUBMISSION

As of: July 15, 2008 Tracking No. 8066b7d7 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0089](#)

Frank C. Gravelyn

Submitter Information

Name: Frank C Gravelyn

Address:

3742 Wilmington NW

Comstock Park, MI, 49321

Organization: Alliance for the Great Lakes

General Comment

← 034a

As new regulations are being considered for dry cargo sweeping perhaps the question should be why should it be allowed, not why shouldn't it. Natural products such as coal and limestone seem perfectly innocuous to dump into our lakes, however, in any large quantity the impact on the ecosystem isn't known.

Material such as taconite and iron-ore that may contain lead or mercury are even more of a concern. Exactly what economic hardship would a company face if it was precluded from simply dumping these items in the lakes? And, how does that hardship balance against any additional contamination of the Great Lakes with heavy metals?

I would ask that you create new regulations not based on what is easy, or what has always been done, but on what is in the best long term interests of the people who enjoy and rely on the waters of the Great Lakes.

Sincerely,

Frank C. Gravelyn

PUBLIC SUBMISSION

As of: July 16, 2008 Tracking No. 8067d47e Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0094](#)

Janet O'Connel

Submitter Information

Name: Janet M O' Connel

Address:

MN,

General Comment

← 035a

Disallow cargo sweeping into the Great Lakes

Attachments

[USCG-2004-19621-0094.1](#) Janet O'Connel

July 16, 2008

From: Janet O'Connell
MN

Regarding:

Docket ID USCg-2004-19621
Docket Title Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCg-2003-16814
Document ID USCg-2004-19621-0033
Document Title NPRM - Dry Cargo Residue Discharges in the Great Lakes

I would like to comment upon the practice of cargo sweeping into the Great Lakes. I respectfully request that all dumping cease and that the water quality of the Great Lakes be maintained for current and future generations.

← 035b

Currently, this practice allows chemicals of various sorts to be dumped, many containing toxic substances harmful to humans, the environment and other creatures within the environment.

← 035c

I have studied taconite and its composition extensively. Today in MN, there is an active study within the MN Department of Health regarding mesothelioma, a cancer associated with asbestos. Plans are to perform a "Work Experience Study- where did the miners work, any other exposures; Respiratory Health Study- perform x-rays and lung tests of the affected group; and a Mortality Study Do miners tend to die from different causes than the rest of us? What can we learn from the information on death certificates?" (see plan "Mesothelioma in Northeastern Minnesota and Two Occupational Cohorts: 2007 Update)

I would also point you to the court documents for United States vs Reserve Mining Company and specifically the testimonies of Dr. Philip Cook from the EPA Water Quality Laboratory and Dr. Irving Selikoff, an asbestos expert from Mount Sinai Hospital, NY. There is no question that the findings in the trial point to extreme human and environmental hazard as a result of asbestiform particles being dumped into Lake Superior. Judge Miles Lord ruled in favor of the US and prohibited further dumping into Lake Superior.

The files are housed at the Minnesota Historical Society and may be accessed through the MN Attorney General's office:

Office of Minnesota Attorney General Lori Swanson
1400 Bremer Dr.
445 Minnesota St.
St. Paul, MN 55101

The following are files to review regarding asbestos hazards and the dumping in Lake Superior from 1947 to 1974:

Location	Box
117.G.19.6F	IV-10

Trial transcripts : **Volume 2. August 2, 1973: Philip M. Cook.**
Volume 3. August 3, 1973: Philip M. Cook.
Volume 4. August 6, 1973: Philip M. Cook.

Volume 5. August 7, 1973: Philip M. Cook

Location	Box
117.G.19.7B	IV-11

Trial transcripts :Volume 27. September 11, 1973: Philip M. Cook.

Volume 32. September 18, 1973: Wagoner and Irving J. Selikoff.

Volume 33. September 19, 1973: Irving J. Selikoff.

Volume 34. September 20, 1973: Irving J. Selikoff.

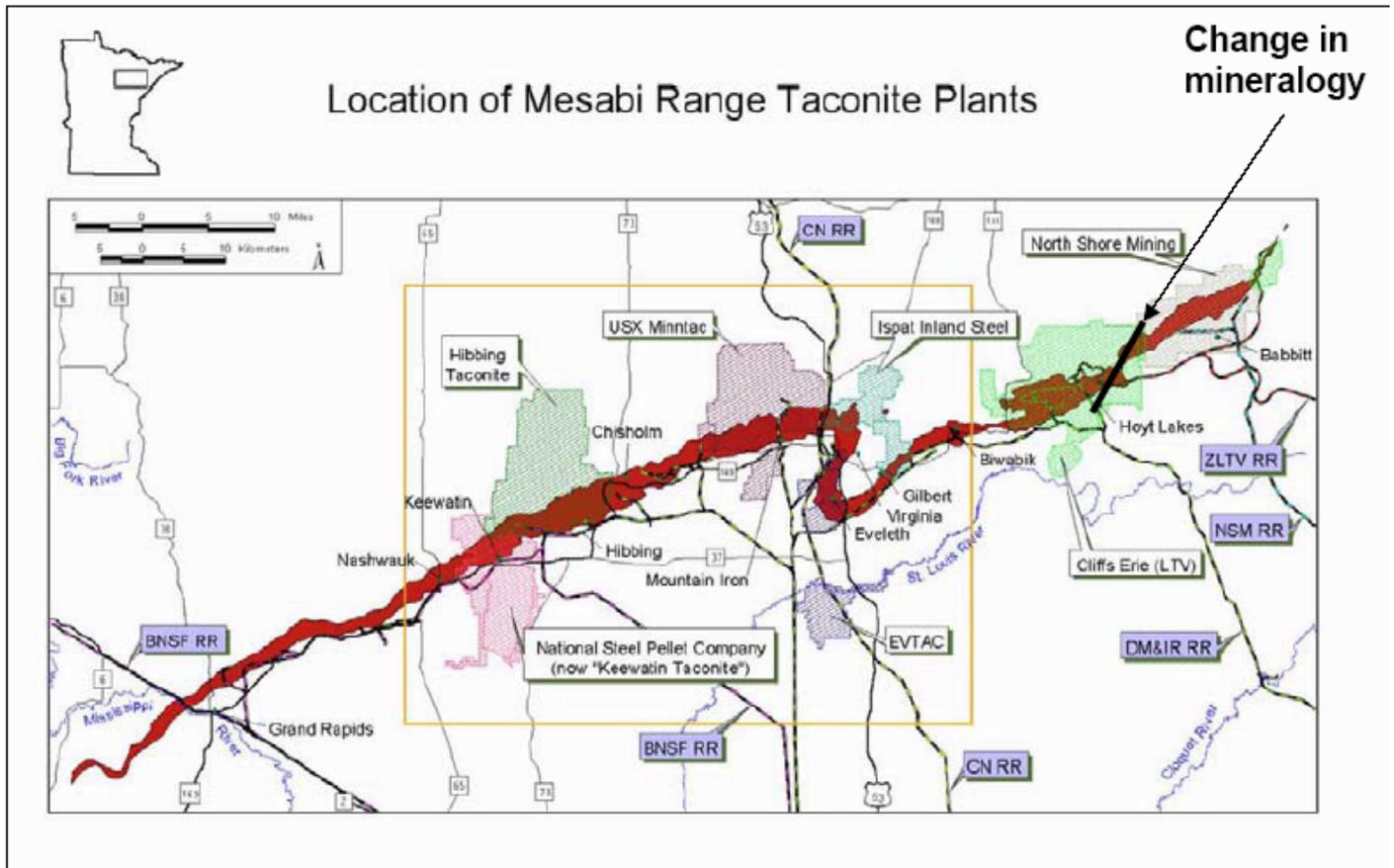
Volume 35. September 21, 1973: Irving J. Selikoff.

Location	Box
117.G.20.1B	IV-15

Volume 116. February 19, 1974: Philip Cook and Robert Soldofsky; **Volume 129.** March 27, 1974: Arnold W. Lindell, Philip M. Cook.; **Volume 135.** April 9, 1974: Arguments by Egan, Murnane, Starns, and Hyde. William Taylor and Philip Cook, witnesses.

Location	Box
117.G.20.4F	IV-18

p Cook, June 29 and July 13, 1973. and Cook testimony summaries



Taken from Larry Zanko presentation 8/8/2007 **Geological and Mineralogical Characterization of Taconite Dust Particles**

It is currently accepted that east of Hoyt Lakes, the geology of the region is compromised of asbestos containing minerals. The study that is underway by the MDH is looking at cancers west of the line shown above.

The result of the past Reserve Mining trial and any further study of taconite will show that the waters of our Great Lakes will be severely compromised if taconite is allowed to be dumped. It is unlawful in MN for Reserve Mining to dump tailings into Lake Superior, it should also be unlawful for other companies or entities to dump any asbestos containing material into any body of water.

There are a great many other substances that may be dumped into the lakes, careful consideration should be given to this practice. In light of the fact that many cities within the United States and Canada receive their drinking water from the Lakes, no dumping should be allowed. There is a cumulative affect from such practice that is harmful to all involved. I urge the Coast Guard and Congress to take the high road and prevent further damage to the Great Lakes.

Cc: Minnesota Senator Kathy Saltzman and Representative Julie Bunn

Additional references:

What is mesothelioma?

In the human body, there are a number of mesotheliums: one surrounds the heart, the lungs, the intestinal tract and then the chest cavity. Pleural mesothelioma occurs in between the lung and chest cavity mesotheliums, eventually compressing the lungs to such a point that people literally strangle to death. Particles/fibers migrate thru the lungs or digestive tract into the mesotheliums, thereafter causing the cancer. Other cancers are known to be induced by asbestos fibers, this is confirmed in the Selikoff/Reserve testimony and citings he makes of various studies (enclosed).

In reviewing the MNDept of Health website, cancer data is shown for the period 1998 to 2002 by type, by sex and expected vs actual for each. (enclosed) In the data, you see increased incidences of various other cancers that have been linked: larynx, pharynx, lung, stomach, kidney, bladder, heart, esophagus, especially in St. Louis County. This is cited in many cases and studies in Selikoff testimony as what has happened in other asbestos cases.

What is Asbestos?

Per the report *Morphological and Optical Characterization of Amphiboles from Libby, Montana U.S.A. by Spindle Stage Assisted -Polarized Light Microscopy* found at http://www.edcoe.org/asbestos/documents/cfvsas_univofid.pdf , asbestos is defined as:

“The physical definition of asbestos deals with its morphology or shape. Regulatory agencies consider a particle to be asbestos, for counting purposes, if its aspect ratio is 3:1 or greater and the particle is over 5 µm in length (5, 7, 16). This is, of course, very different from the physical characteristics a mineralogist would use – that the particle must have a fibrous form.

The chemical definition of asbestos used by regulatory agencies for identification includes six mineral species. These minerals are chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite (5, 7, 16). Chrysotile is the asbestos form of serpentine, a sheet silicate. The others in this group are all amphiboles. Crocidolite and amosite are asbestiform varieties of the amphibole minerals riebeckite and grunerite, respectively. Thus the names chrysotile, crocidolite, and amosite always denote asbestos minerals, while tremolite, actinolite, and anthophyllite can occur in either a non-asbestos (non-fibrous) or asbestos (fibrous) form, with the non-asbestos form being much more common in the geological environment.”

Scientific/Medical Reviews and References

1) 2007 MN Dept Health Update:

<http://www.health.state.mn.us/divs/hpcd/cdee/mcss/documents/nemeso1207.pdf>

2) Chapter 4: Occurrence of Cancer in Minnesota Counties and Regions, 1998-2002 (PDF: 274KB/97 pages) http://www.health.state.mn.us/divs/hpcd/cdee/mcss/documents/2005chapter4_6.pdf

- Pages 134-228: Mesothelioma listed in tables of sex- and site-specific cancer incidence rates and observed and expected counts by county and region w/in Minnesota for 1998-2002 combined.

3) http://www.epa.gov/osp/regions/emerpoll_rep.pdf **EPA REGION/ORD WORKSHOP ON EMERGING POLLUTANTS SUMMARY REPORT**, August 11-14, 2003 Chicago, IL Asbestos and Related Durable Fibers: Too Ubiquitous, Too Persistent, Too Complex to Put Health Risks to Rest?

Pg 54-57 Wednesday, August 13, 2003 Asbestos and Related Durable Fibers: Too Ubiquitous, Too Persistent, Too Complex to Put Health Risks to Rest? Phillip Cook, U.S. EPA/ORD/NHEERL/Duluth, MN..... Asbestos is a persistent, bioaccumulative toxin, much like PCBs. We need to look at asbestos the same way we have looked at PCBs. Some synthetic nanofibers that are being developed are similar to asbestos. We should take what we know about asbestos risk to look at nanofibers so we can avoid developing substances that would pose asbestos-like risks.

4) Malignant Mesothelioma The University of Minnesota Experience

NICHOLAS J. VOGELZANG, MD,' STEPHEN M. SCHULTZ, MD,' ANTONIO M. IANNUCCI, MD,t*

AND B. J. KENNEDY, MD' <http://www3.interscience.wiley.com/cgi-bin/fulltext/112681714/PDFSTART>

Between 1950 and 1981, 31 patients with mesothelioma were treated at the University of Minnesota. An average of 0.2 to 0.6 patients were seen per year between 1950 and 1970, and since 1970 there has been an average of 1.4 to 2.4 patients per year. Twenty-seven of the 28 patients with malignant mesothelioma are known or presumed dead. Mesotheliomas occurred in all areas of Minnesota, and 28.6% of the patients had a definite history of asbestos exposure. This was also a probable cause of the disease in an additional 25% of patients. The clinical findings and course of the disease were similar to other series. The median survival of all patients was eight months. Doxorubicin-treated patients survived a median of 16 months (range, 2-36 months). Malignant mesothelioma is being increasingly recognized in Minnesota and has a grim prognosis in spite of doxorubicin therapy. *Cancer* 53:377-383, 1984.

5) Irving J. Selikoff

*Environmental Sciences Laboratory
Mount Sinai School of Medicine
New York Academy of Sciences
The City University of New York
New York, New York 10029*

INTRODUCTION In 1963, it was found that a large group of asbestos insulation workers in the New York metropolitan area had experienced unusual mortality during 1943-1962.¹ Six hundred and thirty-two men had been on the union's rolls on January 1, 1943. By December 31, 1962, 262 men had died, nine before reaching 20 years on the job. Of those who died after 20 years from first employment, lung cancer was found in marked excess; 6.02 such deaths had been expected, and 42 occurred. In addition, there were several deaths due to pleural or peritoneal mesothelioma and a modest increase in deaths due to, gastrointestinal cancer, where 9.71 were expected and 29 were observed. There were 12 deaths due to pulmonary asbestosis ([TABLE 1](#)).

6) <http://caonline.amcancersoc.org/cgi/reprint/28/2/87.pdf>

Asbestos-associated Disease in United States Shipyards

Irving J. Selikoff and E. Cuyler Hammond

CA Cancer J Clin 1978;28:87-99

DOI: 10.3322/canjclin.28.2.87

This information is current as of April 10, 2008

CLINICAL LATENCY OF ASBESTOS-ASSOCIATED CANCER

During the past 15 years the important disease potential of asbestos exposure has been clarified. The principal hazards have been demonstrated to be cancer of a number of sites, and asbestosis. Among asbestos workers, approximately 20 percent of all deaths are due to lung cancer, six percent or seven percent to pleural and/or peritoneal mesothelioma, and there is an excess found in several other categories (e.g., cancer of the esophagus, stomach, colon-rectum, oropharynx, larynx, kidney). Table 1 provides an analysis of causes of death among 17,800 asbestos insulation workers in the United States and Canada followed prospectively from January 1, 1967 to January 1, 1977.

pg 2 of report

7) The 1968 BOHS Chrysotile Asbestos Standard by T. L. OGDEN*

<http://annhyg.oxfordjournals.org/cgi/reprint/47/1/3>

BACKGROUND

In the 1960s, the British Occupational Hygiene Society (BOHS) established a Standards Committee to advise members on hygiene standards for air contaminants and on associated matters such as measurement methods. Its first report (BOHS, 1968) proposed a hygiene standard for chrysotile asbestos, reproduced in the on-line edition of this issue of the *Annals*. It is perhaps the most influential thing that BOHS has ever done; but it is also probably the most controversial, to the extent that there is still no consensus view of it. Any commentary on it must therefore be a personal view.

8) Mesothelioma and Asbestos Fiber Type Evidence From Lung Tissue Analyses

<http://www3.interscience.wiley.com/cgi-bin/fulltext/112685255/PDFSTART>

J. C. MCDONALD, MD,¹ B. ARMSTRONG, PHD,¹ G. CASE, MD,¹ D. DOELL, MD,¹ W. T. E. MCCAUGHEY, MD,¹
A. D. MCDONALD, MD,^{*} AND P. SEBASTIEN, PHD^{*}

Lung tissue samples from 78 cases from autopsy of mesothelioma in Canada, 1980 through 1984, and from matched referents were examined by optical and analytical transmission electron microscopic study. Concentrations of amosite, crocidolite, and tremolite fibers, and of typical asbestos bodies discriminated sharply between cases and referents. The distributions of chrysotile and anthophyllite/talc fibers and of all other natural and man-made inorganic fibers (28 pm) in the two series were quite similar. Relative risk was related to the concentration of long (28 pm) amphibole fibers with no additional information provided by shorter fibers. The proportion of long fibers was much higher for amphiboles than chrysotile and, except for chrysotile, systematically higher in cases than referents. Amphibole asbestos fibers could explain most mesothelioma cases in Canada and other inorganic fibers, including chrysotile, very few. Fibrous tremolite, contaminant of many industrial minerals including chrysotile, probably explained most cases in the Quebec mining region and perhaps 20% elsewhere.
Cancer 63:1544-1547, 1989.

Pg 4 Discussion

The etiologic interpretation of these findings depends on the relative importance of short-term and long-term retention of mineral fibers in the respiratory tract. In this respect, lung cancer and mesothelial tumors may well differ. Most asbestos-related

lung cancers result from the joint action of inhaled fibers and tobacco smoke; with mesothelioma, fibers only have been incriminated and long-term retention might be more important. If this be so, our results suggest that long amphibole fibers could explain a high proportion of mesotheliomas in both men and women. This view is supported by the distribution of ferruginous bodies, most of which have an amphibole core.⁵

9) Lung Hazards, Including Asbestos, Silica, Dusts, Fumes, and Smoking

<http://www.cdc.gov/elcosh/docs/d0100/d000038/pdfs/page%2044.pdf>

Other lung problems faced by construction workers and documented more recently include an increased risk of tuberculosis and lung cancer from exposure to silica; asbestosis, which is disabling and potentially fatal; asthma and fluid in the lungs from gases and fumes produced during welding; and lung irritation and carbon monoxide poisoning from diesel exhausts, particularly during tunnel and highway construction.⁴

The numbers of deaths from silicosis and from exposures to asbestos are believed to be declining, but the National Institute for Occupational Safety and Health has said silicosis deaths are underreported. And while work around asbestos has been tightly regulated in the United States since 1976, new exposures continue during unprotected (and illegal) demolition and abatement work.⁵

Unfortunately, conclusive studies relating disease to workrelated exposures are difficult to obtain. One reason is that workplace exposures to hazards may not result in symptoms of disease for years or decades. As a result, cases of silicosis, tuberculosis, asbestosis, mesothelioma, or lung cancer are rarely documented as workrelated in the Bureau of Labor Statistics system. In 2000, BLS reported a total of 100 nonfatal "dust diseases of the lungs" and 500 "respiratory conditions due to toxic agents" among the nation's 8.9 million construction workers.⁶ The BLS Census of Fatal Occupational Injuries, by definition, does not count illnesses.

10) http://www.atsdr.cdc.gov/asbestos/asbestos/health_effects/

Asbestos Facts:

- When asbestos fibers are inhaled, most fibers are expelled, but some can become lodged in the lungs and remain there throughout life. Fibers can accumulate and cause scarring and inflammation. Enough scarring and inflammation can affect breathing, leading to disease.
- People are more likely to experience asbestos-related disorders when they are exposed to high concentrations of asbestos, are exposed for longer periods of time, and/or are exposed more often.
- Inhaling longer, more durable asbestos fibers (such as tremolite and other amphiboles) contributes to the severity of asbestos-related disorders.
- Exposure to asbestos, including tremolite, can increase the likelihood of lung cancer, mesothelioma, and non-malignant lung conditions such as asbestosis (restricted use of the lungs due to retained asbestos fibers) and changes in the lung lining.
- Changes in the lining of the lungs (pleura) such as thickening, plaques, calcification, and fluid around the lungs (pleural effusion) may be early signs of asbestos exposure. These changes can affect breathing more than previously thought. Pleural effusion can be an early warning sign for mesothelioma (cancer of the lining of the lungs).
- Most cases of asbestosis or lung cancer in workers occurred 15 years or more after the person was first exposed to asbestos.
- Most cases of mesothelioma are diagnosed 30 years or more after the first exposure to asbestos.
- Mesothelioma has been diagnosed in asbestos workers, family members, and residents who live close to asbestos mines.
- Health effects from asbestos exposure may continue to progress even after exposure is stopped.

- Smoking or cigarette smoke, together with exposure to asbestos, greatly increases the likelihood of lung cancer. See [Cigarette Smoking, Asbestos Exposure, and your Health](#).

11) Influence of Fibre Length, Dissolution and Biopersistence on the Production of Mesothelioma in the Rat Peritoneal Cavity <http://annhyg.oxfordjournals.org/cgi/reprint/43/3/155.pdf>

A range of respirable man-made mineral fibres were tested for evidence of carcinogenicity by injection into the peritoneal cavity of male SPF Wistar rats; and differences in carcinogenicity were related to the dimensions and biopersistence of the injected fibres. The fibres tested included an amosite asbestos, a silicon carbide whisker, a special purpose glass microfibre, and a range of other man-made vitreous fibres (MMVFs) and refractory ceramic fibres (RCFs) from the TIMA fibre repository. The injected dose of each was designed as the estimated mass required to contain 10⁹ fibres >5 mm in length, as determined by optical microscopy. The numbers of long fibres (>15 mm) contained in these doses ranged across fibres from 0.1_10⁹ to 0.8_10⁹ fibres; the number of long fibres thinner than 0.95 mm ranged from 0.015_10⁹ to 0.4_10⁹. The treatment groups contained between 18 and 24 animals. Animals were killed when they showed signs of debilitation. At autopsy, the diagnosis of mesothelioma was usually obvious macroscopically. Otherwise, histological examination of peritoneal organs was used to search for early tumour development. Judged by median survival time, four of the fibre types, in the doses administered, presented higher mesothelioma activity than amosite asbestos. The other fibres tested were less carcinogenic than the amosite. Only a ceramic material derived by extreme heating to simulate the effect of furnace or oven conditions, produced no mesotheliomas. Attempts were made, using regression models, to relate these differences to fibre dimensions and to measures of durability from separate experiments. The results pointed principally to a link with the injected numbers of fibres >20 mm in length and with biopersistence in the rat lung of fibres longer than 5 mm. Improved quantification of the relative importance of fibre dimensions and biopersistence indices requires experimentation with a range of doses. # 1999 British Occupational Hygiene Society. Published by Elsevier Science Ltd. All rights reserved.

12) Silicosis and Related Exposure <http://www.cdc.gov/niosh/docs/2003-111/pdfs/2003-111d.pdf>

13) Asbestosis and Related Exposure <http://www.cdc.gov/niosh/docs/2003-111/pdfs/2003-111b.pdf>

14) Malignant Mesothelioma <http://www.cdc.gov/niosh/docs/2003-111/pdfs/2003-111h.pdf>

15) Lung Cancer <http://www.cdc.gov/niosh/docs/2003-111/pdfs/2003-111n.pdf>

16) <http://www2a.cdc.gov/niosh-Chartbook/imagetdetail.asp?imgid=212> Figure 2–170. Distribution and number of malignant mesothelioma deaths in U.S. residents aged 15 and older by sex and race, 1999. More than 80% of malignant mesothelioma deaths occurred in men in 1999. White residents accounted for 94.8% of malignant mesothelioma deaths. (*Source: NIOSH [2002e].*)

Pertinent Articles

1) [U.S. Labor Department’s MSHA publishes final asbestos exposure rule; Regulation reduces general permissible exposure limit to 1/20th of previous level](http://www.mesotheliomacenter.org/mesothelioma-news/2008/03/03/us-labor-departments-msha-publishes-final-asbestos-exposure-rule-regulation-reduces-general-permissible-exposure-limit-to-120th-of-previous-level/) <http://www.mesotheliomacenter.org/mesothelioma-news/2008/03/03/us-labor-departments-msha-publishes-final-asbestos-exposure-rule-regulation-reduces-general-permissible-exposure-limit-to-120th-of-previous-level/>

Monday, March 3rd, 2008.

The U.S. Department of Labor's Mine Safety and Health Administration (MSHA) today published a final rule in the Federal Register that revises MSHA's existing health standards for asbestos exposure at metal and nonmetal mines, surface coal mines and surface areas of underground coal mines. Exposure to asbestos has been associated with lung cancer, mesothelioma and other cancers, as well as asbestosis and other nonmalignant respiratory diseases.

"This final rule will help improve health protection for miners who work in an environment where asbestos is present," said Richard E. Stickler, acting assistant secretary of labor for mine safety and health. "Furthermore, it will help lower the risk of material impairment of health or functional capacity over a miner's working lifetime."

Requirements of the Asbestos Exposure Limit rule:

- The final rule retains MSHA's existing definition of asbestos, which is the same as that of the Labor Department's Occupational Safety and Health Administration (OSHA).
- The final rule lowers MSHA's Permissible Exposure Limit (PEL) for asbestos 95 percent, from two fibers per cubic centimeter (f/cc) to 0.1 f/cc, which is the same as OSHA's; and lowers the excursion limit for brief exposures to higher levels from 10 f/cc (for 15 minutes) to one f/cc (for 30 minutes), which is the same as OSHA's. These lower PELs will significantly reduce the risk to miners.
- The final rule retains MSHA's existing method for analyzing asbestos samples (phase-contrast microscopy or PCM) and the existing counting criteria (particles 5 micrometers or longer with a length to diameter ratio of at least 3 to 1), which are the same as OSHA's.
- By policy, MSHA will continue to use transmission electron microscopy (TEM) to confirm samples that exceed the PEL (0.1 f/cc).

2) History of Libby, MT and W.R. Grace and Co. **A town left to die**

<http://seattlepi.nwsourc.com/uncivilaction/>

Tiny Libby, Mont., depended for years on the jobs at a vermiculite mine. But the mine is closed now, and a P-I investigation shows the town is paying a tragic price for those jobs. Hundreds of former miners, their wives and children, and other townspeople have either died or been diagnosed with fatal illness from asbestos the mine released into the air. No one stepped in to stop the dying. Now the town wonders when it will end, and if the town's children are still at risk.

(Also see "[Asbestos, The Forgotten Killer.](#)" The EPA finds asbestos in many common garden products. Plus, the P-I discovers that some vermiculite from a mine where workers and their families died from asbestos exposure [is still available in the Seattle area.](#))

(Note: Also see a [chronological list](#) of the P-I's extensive coverage of asbestos-related issues from 1999 to 2002.)

Hundreds are dead or dying

Asbestos from a now-closed vermiculite mine on a mountain near Libby has killed 192 people and left at least 375 with fatal diseases. Doctors say the people of Libby will keep dying for decades. (Nov. 18, 1999)

It all started with the search for gold

Prospectors first put pick and shovel to Zonolite Mountain 119 years ago. Many mining-claim records are missing or illegible, but what is known is that almost 80 percent of the world's vermiculite came from Libby. (Nov. 18, 1999)

While people are dying, government agencies pass buck

Everyone seems to agree someone needs to do something about the hundreds of people from Libby who have either died or been diagnosed with fatal diseases after being exposed to tremolite asbestos from a vermiculite mine. But every official and every agency has a reason why, so far, they have not been that somebody. (Nov. 19, 1999)

'No one ever told us that stuff could kill you'

Darlene Joy Riley called her cancer "George." Last year, George killed her. The story of one woman who didn't work at W.R. Grace's vermiculite mine but died after getting asbestos fibers in her lungs. (Nov. 19, 1999)

- [The History of W.R. Grace Co.](#) (Nov. 18, 1999)
- [Libby's lost miners: A gallery of eight who died](#) (Nov. 19, 1999)
- [Group organizes to help victims](#) (Nov. 19, 1999)
- [Authorities sending teams to Montana mining town](#) (Nov. 22, 1999)
- [Montana's governor knows asbestos danger](#) (Nov. 25, 1999)
- [Finally, Libby asbestos victims have their say](#) (Dec. 3, 1999)
- [Initial tests reveal areas of asbestos in and around Libby](#) (Dec. 3, 1999)
- [Deadly ore was shipped around U.S., Canada](#) (Dec. 22, 1999)
- [Just 23 months hauling ore -- dead 36 years later](#) (Dec. 22, 1999)
- [Asbestos study is expanded nationwide](#) (Jan. 18, 2000)
- [Grace to pick up medical bills in tainted town](#) (Jan. 22, 2000)
- [Immediate cleanup sought in mining town](#) (Feb. 2, 2000)
- [Company blocked OSHA's efforts to establish exposure standards](#) (Feb. 12, 2000)
- [Far from Libby, Montanans fight asbestos measure](#) (March 2, 2000)
- [Mine-safety agency takes action](#) (March 17, 2000)
- [Grace backs off pledge to clean up asbestos](#) (April 27, 2000)
- [W.R. Grace buys its old Libby mine, then bans EPA investigators from it](#) (July 24, 2000)
- [EPA asks: Why did dying miners get no help?](#) (Aug. 18, 2000)
- [Labor Dept. enters Libby's asbestos fight](#) (Aug. 21, 2000)
- [EPA sues for access to Libby vermiculite mine](#) (Sept. 15, 2000)
- [Exposure in Libby blamed for high rate of lung disease](#) (Feb. 23, 2001)
- [Asbestos confusion exposing millions](#) (Feb. 28, 2001)
- [By any name, asbestos is still a killer](#) (Feb. 28, 2001)
- [Murray seeks asbestos hearings](#) (April 2, 2001)
- [W.R. Grace files for bankruptcy](#) (April 3, 2001)
- [Up to 30% tested in Libby hurt by asbestos](#) (August 24, 2001)
- [Asbestos victims feel betrayed](#) (May 16, 2002)
- [A bittersweet farewell to a champ of asbestos fight](#) (Jan. 27, 2007)
- [W.R. Grace to pay record Superfund fine](#) (March 12, 2008)

3) Dirty Little Secret **Asbestos laces many residential soils**

Janet Raloff <http://www.sciencenews.org/articles/20060708/bob9.asp>

The federal government, however, has begun taking seriously community asbestos problems. Bradley S. Van Gosen of the U.S. Geological Survey in Denver spent a year compiling the accounts up to 100 years old of asbestos deposits in the eastern United States. Last year, he produced a map of 331 asbestos deposits—some so rich they were once mined—running in a band from Alabama to Vermont (<http://pubs.usgs.gov/of/2005/1189/pdf/Plate.pdf>). He's now at work on similar maps for the Midwest and West.

4) House committee introduces bill to ban all asbestos

<http://blog.seattlepi.nwsource.com/secretingredients/archives/132769.asp> includes MN taconite aggregate

5)

<http://www.minnesotamedicine.com/PastIssues/September2007/CoverStorySeptember2007/tabid/2256/Default.aspx> September 2007 **Data Mining** By Richard Broderick

“Bender says that the Department of Health tried unsuccessfully for two decades to find funding for three studies: an occupational cohort mortality study, a case-control study of mesothelioma, and medical screening of current and former miners. The cost of those studies was estimated to be \$3 million.....

Joe Scholar sees the situation differently. He believes the Department of Health had no intention of doing further studies on the possible link between taconite dust and mesothelioma.”

6) <http://minnesota.publicradio.org/display/web/2007/06/07/mesostudy/> Researchers look for links between taconite and mesothelioma by [Stephanie Hemphill](#), Minnesota Public Radio June 8, 2007

"This is number strong enough to more definitively look at commercial asbestos exposure and the taconite dust exposure," she says.

They'll do it using case controls -- comparing several miners who didn't get mesothelioma to each one who did. They'll try to compare exposure to both taconite dust and asbestos, to see whether taconite could be the likely cause of the disease.”

7) <http://articles.citypages.com/2005-11-30/news/brave-new-highway/> Issue — November 30, 2005

Coming soon: The microwavable road? Brave New Highway by [Mike Mosedale](#)

“Hopstock and Zanko's proposal for the tailings is not without critics. At the Center for Transportation Studies seminar, two old lions of Minnesota's environmental movement--retired federal judge Miles Lord and former Minnesota Pollution Control Agency chief Grant Merritt--raised objections based on the possible health risks. Both Lord and Merritt are concerned because some taconite tailings are known to contain asbestos and asbestos-like fibers. Those fibers, they fear, may be related to the elevated levels of a rare but deadly cancer called mesothelioma on the Iron Range.

From 1988 to 1999, according to a 2003 Minnesota Department of Health study, there were 81 identified cases of mesothelioma among residents of northeastern Minnesota, nearly double the expected rate. For that reason alone, Merritt contends, any use of taconite tailings in highways should be subjected to a full environmental review.

Lord, who issued the landmark 1974 ruling that prohibited the dumping of taconite tailings into Lake Superior, takes a more conspiratorial view. The use of taconite tailings on highways, Lord contends, represents "a deliberate attempt by the taconite industry and its owners, 'Big Steel,' to spread deadly particles on Minnesota highways, thereby making it difficult, if not impossible, to pinpoint the cause of cancer deaths on the Iron Range because cancer will occur throughout the state of Minnesota."

None of this satisfies Miles Lord. He counters that the MDH taconite dust study was sharply criticized by some scientists for its methodology and conclusions. Additionally, Lord notes, at least one EPA scientist has gone on record stating that the testing of the western range for asbestos has been inadequate.”

8) Taconite a suspect in Iron Range cancer deaths by [Jessica Mador](#), Minnesota Public Radio

March 29, 2007 <http://minnesota.publicradio.org/display/web/2007/03/29/mining/>

John Linc Stine, director for environmental health at the Minnesota Department of Health, is studying the effects of breathing taconite dust on lab rats to determine a safe level for humans -- that is, how many fibers in how much air is a safe level of exposure. No such standard now exists. Stine says it's important to know what job each worker did when they contracted the disease.

9) What's New http://mepartnership.org/sites/GREATLAKES/sub_whatsnew.asp?new_id=2385

Taconite researchers want to open discussion Thursday, August 09, 2007

The University of Minnesota’s School of Public Health will take the first big step in finding out what has sickened and killed taconite miners by holding a meeting Wednesday in Eveleth on several wide-ranging studies to learn about the health effects of taconite.

The meeting isn’t being held to discuss how the studies should be conducted, said Jeff Mandel, associate professor at the school of public health and one of the leaders on the research project. Instead, it’s to begin opening the lines of communication with the more than 40 organizations that will be involved with the research.

Some believe that fibers found in taconite cause numerous diseases such as asbestosis, silicosis, scarred lungs, mesothelioma and non-mesothelioma lung cancer — but those links have not been proven.

10) <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1477756> Missing Pleural Malignant Mesothelioma Cases In Minnesota from 1979 – 1985 by Drs. Lienenfeld, Engin and Gunderson

pg 1 In that study, we noted that in several instances malignant mesothelioma (either intrathoracic or unspecified site) was listed on the death certificate in such a manner as to imply that the neoplasm was either a lung cancer or a malignancy of an unspecified site. The effect of this misclassification is to underestimate the mortality from malignant mesothelioma by fourfold to eightfold. Given the importance of malignant mesothelioma as a proxy for past asbestos exposure, it is necessary to determine the extent of such misclassification for all deaths in the United States.

PG 2 During this review an irregularity in mortality reporting for cases of pleural malignant mesothelioma was discovered that we believe is national in scope.

Pg 4 Indeed, if the degree of misclassification prevalent in Minnesota extends to the entire United States, pleural malignant mesothelioma mortality could be underestimated by fourfold or greater.

11) Grand Jury Indictment: W.R. Grace Lied About Dangers of Asbestos Exposure

<http://www.mesothelioma-search-engine.com/mesothelioma-news/mesothelioma-news-0026.htm>

The federal government is trying to bring the hammer down on a company accused of thumbing its nose at environmental laws and worker safety for decades.

02/08/2005 - Officials from Columbia, Md.-based W.R. Grace & Co., which operated a vermiculite mine in Libby, Mont., from 1963 to 1990, were well-aware that the asbestos-tainted vermiculate products they were profiting from were endangering the lives of mine workers, customers and residents of Libby and the surrounding communities, according to an indictment handed down by a federal grand jury in Montana on Feb. 7.

12) 40-year fiber debate renewed <http://www.mesothelioma-search-engine.com/mesothelioma-news/mesothelioma-news-0106.htm>

"The fibers that are killing people in Libby (Montana) are not technically asbestos either. That really isn't the issue," Carpenter said. "There's a whole host of (mineral fibers) that can be a problem that don't fall under the official definition of asbestos."

PUBLIC SUBMISSION

As of: July 16, 2008 Tracking No. 8067beb7 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0093](#)

Mark

Submitter Information

Name: Mark

Address:

South Bend, IN,

General Comment

← 036a

Stop the dumping. I am a Lake Michigan surfer and it is sad to hear all of the residue discharges that take place every year. ~~This is not only harmful for the surfers but regular beach goers and fishermen.~~

036b

PUBLIC SUBMISSION

As of: July 16, 2008 Tracking No. 8067735e Comments Due: December 27, 2004 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0092](#)

Lloyd and Clare Goyings

Submitter Information

General Comment

Please see the attachments

Attachments

 037a

[USCG-2004-19621-0092](#) Lloyd and Clare Goyings

7/10/08

Dear Sir : DEPT. OF TRANSPORTATION
DOCKETS

~~Under~~ ¹⁹⁹⁸⁻²⁰⁰⁵ the proposed
policy to allow freighters to
continue dumping refuse into
the great lakes (KAL box; see June 15, 08)

We are absolutely
opposed to the continued
practice of dumping refuse
from any source into
the great lakes. We
just completed Great Lake
Policy of diversion of water
from this valuable resource
and therefore we need to
take all necessary steps
to protect these waters for
our and future generations.
The Docket advance

for your consideration
of this matter

Sincerely,

Lloyd Allen Gaynes

← 038a

1 At this time I'm going to ask Mr. Jim

2 Sharrow for comment.

3 MR. SHARROW: Good afternoon. I'm

4 Jim Sharrow. I'm the facilities manager with the

5 Duluth Seaway Port Authority, and I have a couple of

6 very general comments on the NPRM today.

7 First of all I want to say the Duluth

8 Seaway Port Authority is very supportive of the

9 process that the Coast Guard is using in determining

10 the suitability of discharging these cargo sweepings

11 into the lakes. Duluth Superior Harbor is the

12 largest, busiest, highest tonnage harbor in the

13 Great Lakes and actually the 15th largest harbor or

14 busiest harbor in the U.S. and ranked as a dry bulk

15 port we are the busiest in the United States. So

16 the results of this process bear heavily on the --

17 on this port. And I guess I'd like to say that in

18 our opinion that this entire process is something

19 that began as a result of kind of the law of

20 unintended consequences that when the original

21 MARPOL law or rule was accepted, it was not

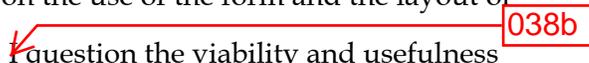
22 understood by our Federal Government or our agencies

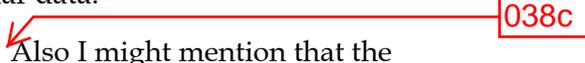
23 back in the 1980s how it would be applied to the

24 Great Lakes because of the interpretation of cargo

25 -- of cargo residues as garbage. And we've been

1 struggling, we as an industry, to deal with this
2 ever since. It's been about 20 years now. And --
3 but we are very supportive of the process the Coast
4 Guard has been going through. We think it's a very
5 professional process and we're very happy to see
6 that you are trying to -- trying to handle this and
7 a balanced manner to balance the needs of industry
8 with the environmental needs of the region.

9 A couple of particular comments on
10 the form, on the use of the form and the layout of
11 the form.  question the viability and usefulness
12 of the man hours question. This can vary greatly
13 the interpretation of what it means could vary
14 greatly from master to master who is recording this
15 and I think you might find that it's a very unusable
16 data once it's been collected. And I will take time
17 and some question the value in collecting that
18 particular data.

19  Also I might mention that the
20 expression of the cargo residue that's discharged in
21 cubic meters might be more accurate or easier for
22 the crews to define it or measure it in cubic feet
23 because I doubt that any ship would ever actually
24 discharge even one cubic meter of material.

25 That's all I have to say. Thank you.

1 MR. BERG: Thank you, Mr. Sharrow.

2 Next I would give the opportunity to

3 Mr. Nekrasil.

4 MR. NEKRASIL: Thank you. I'm Glen

5 Nekrasil. I'm vice president for communications for

6 the Lake Carrier Associations and I'm going to

7 comment on the NPRM.

8 Lake Carrier represents the U.S.

9 vessel operators on the Great Lakes. 16 member

10 company, 63 vessels. Last year we moved 104 million

11 tons of cargo. Primary cargos are iron ore, coal,

12 limestone and cement.

13 We support the continuation of the

14 wash down policy. The draft Environmental Impact

15 Statement find no significant environmental impact

16 but wash down will allow us to continue to operate

17 our vessels as sufficiently as possible while

18 respecting the environment.

19 It's very important to understand

20 that these cargo residues are nonhazardous, nontoxic

21 and most of the raw materials that move on the lakes

22 are shipped in their natural state or as they're

23 mined. Limestone, coal, for example, sometimes

24 they're rinsed and that goes into the hold.

25 Taconite, they do add a binding action, clay, during

1 the process. But again it's pretty much as it's
2 mined out of the ground.

3 The amount of dry cargo residue being
4 swept is minute. The Draft Environmental Impact
5 Statement, the trades and the vessels that they
6 studied in that given year moved 165 million tons of
7 cargo, yet the amount of the cargo residue washed
8 over was only 500 tons. That's equal to 0.0006
9 percent of the cargo. So we are really talking
10 about minute amounts of cargo.

11 The DEIS finds that the highest
12 density track for cargo residue was coal on Lake
13 Erie and if you do it on a per acre basis the coal
14 is equal to spreading three cups of coal over a
15 football field. And I just want to show folks, this
16 is three cups of coal. Spread it over a food ball
17 field. This is what we are talking about. We are
18 not covering the lakes with dry cargo residue. And
19 just in case someone thinks there isn't a lot of
20 coal on Lake Erie, they ship 15 million tons a year,
21 they used to do 50 but Lake Erie is the eastern coal
22 and now the western coal is driving the terminate.
23 Again these are nonhazardous, nontoxic. The DEIS to
24 quote, the effects of over a century of DCR sweeping
25 on sediment quality or biological resources are

1 barely detectable. To repeat, they are barely
2 detectable.

3 So LCA endorses the continuation of
4 the wash down. We do understand the rationale for
5 the slight expansion of the discharge zones, but we
6 would note that your draft Environmental Impact
7 Statement said if you had continued to allow it in
8 those areas it would not have had a message or
9 impact -- environmental impact.

10 We don't understand the encouragement 039b
11 for vessel operators to use voluntary measures.
12 This is a disconnect to us. Obviously the industry
13 is using control measures otherwise we -- might --
14 the quantities wouldn't be so small. We do use
15 deck -- they do shovel it back into the hole and
16 back onto the belts. So I don't want anybody in
17 this room thinking there are lots of measures for
18 vessel operators to apply today to further reduce
19 the amount of dry cargo residue. We are doing our
20 best. It's in our best interest. The customer is
21 paying us to deliver this cargo. He doesn't want it
22 swept over. He wants it in his stockpile.

23 Also the rule making would make 039c
24 mandatory territory record-keeping we're now doing
25 on a voluntary basis. We don't understand this

039d

1 requirement, either. We don't think there is any
2 need for additional studies. You've been studying
3 this now for ten years.

4 And we are looking at dry bulk trades
5 that have existed for a long time. Market has been
6 shipping iron ore since 1852, Duluth since 1892.
7 Rogers city has been shipping limestone since 1912.
8 So when they went down and they got their samples
9 they were looking at tremendous amount cargo
10 movement over a long permanent if you do back to
11 1900 iron ore trade on the Great Lakes since 1900 is
12 7.1 billion tons.

13 The coal trade since 1900, 4.1
14 billion tons. Limestone, 2.2 billion tons. So the
15 studies have analyzed the impacts of tremendous
16 amounts of cargo over an extremely long period of
17 time. So in summation we support the continuation
18 of the wash down policy but we do not believe
19 additional study is merited unless there's a new dry
20 bulk trade on the Great Lakes. Thank you.

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2 need for additional studies. You've been studying
3 this now for ten years.

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6 shipping iron ore since 1852, Duluth since 1892.
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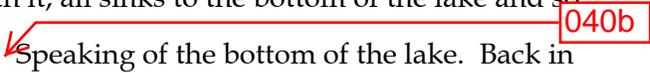
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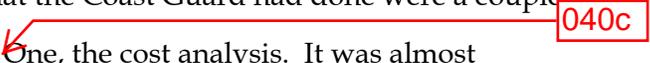
21 MR. BERG: Thank you, sir. I'll give
22 the opportunity to Mr. Musick.

040a

23 MR. MUSICK: Thank you very much.
24 I'm Tim Musick. I live in Duluth and I also work
25 with the Minnesota Pollution Control Agency. We

1 have an office here in Duluth right down by the
2 bridge.

3 We will have a formal written letter
4 coming with regard to our comments on the proposed
5 rule, but a couple of things that -- since I've been
6 doing most of the work on it, a couple of things I
7 wanted to adhere. The demonstration about three
8 cups here made me think a little bit about a
9 complaint I investigated that got me into this thing
10 in the first place and that complaint was from a
11 person who lives on park point. Park point is that
12 spit of sand that goes out and separates our harbor
13 from the lake. And this individual lived on the
14 lake. And he wanted me to come down and look at the
15 coal that was washing up on the beach in front of
16 his house, which I did. And he was absolutely
17 correct. Apparently there's some accumulation that
18 roles up on the beach occasionally and I was able to
19 pick up quite a bit of coal on the beach right out
20 here. So there is a nuisance issue here. I don't
21 want it to be implied here that this is a strictly
22 benign operation, there's that there's nothing wrong
23 with it, all sinks to the bottom of the lake and so
24 on.  Speaking of the bottom of the lake. Back in
25 the mid '90s when I was involved with Earles on Lake

1 Superior, which has been dogging me my whole career,
2 by the way. But, nonetheless, we were out there
3 doing sidescan sonar work and it was obvious to us
4 what happens when you get in the shipping lanes. It
5 is a junkyard out there and this is just a
6 continuation of throwing things off these ships. I
7 think it's time for a Paradigm shift here and get
8 away from this after all this is the 21st century
9 here. Now, what was disappointing for me in the EIS
10 work that the Coast Guard had done were a couple
11 things.  One, the cost analysis. It was almost
12 embarrassing to read how you determined and how you
13 came to the 51 million dollars figure. Utilizing a
14 figure of \$1,700 per hour for the ship, and I don't
15 question that, but when you take four crew members
16 with brooms and shovels and you put them to work for
17 two and a half hours on the deck and then you follow
18 that with one person down in the tunnels walking
19 down the tunnels for three and a half hours giving
20 you a total of six hours tied to the doctor because
21 of clean up requirements, and you multiply that
22 times the 55 U.S. flag ships times the 60 trips per
23 year and you arrive at 51 million dollars. I have
24 to tell you that that is really a stretch. And it
25 didn't even consider anything with regard to

1 mechanical sweepers or vacuum systems on shore
2 facilities or from on shore facilities, which is
3 really I think the crux of the issue. We're not
4 here to complain about the Coast Guard. We're not
5 here to complain about the shipping industry per se.
6 What we'd like this thing to emphasize, however, is 040d
7 the importance of addressing the on shore loading
8 facilities. Because in my work, when it comes to a
9 spill, the responsive party is the party that spills
10 the material. It doesn't matter if it's a unit
11 train coming across Minnesota and it -- it deduct
12 rails for whatever reason, they pick up the coal.
13 If it's a tanker on I 35 and he gets involved in an
14 accident, he cleans up the fuel. Even though he may
15 not have caused the accident. If an on shore
16 facility for whatever reason, operator error,
17 mechanical problems, spill something on the deck of
18 a ship, they ought to be required to clean it up.
19 Now, if we had better controls like that and if we
20 had some responsibility like that it wouldn't be
21 spilling as much stuff, I can guarantee you, because
22 they're going to clean it up. And I don't know
23 about Maritime law, but it seems to me that somebody
24 who spills something on the deck of a ship should be
25 able to go on board and clean it up. And with

1 vacuum systems available today on trailers, drive
2 them right up to the ship, run a line up, back it
3 up, I don't see it as an issue.  From a safety point 040e
4 of view I think the -- I watch these ships go by
5 with taconite pellets all over the deck. If you
6 like walking on marbles, walk on that ship. And
7 leave them on that ship until they're ten miles --
8 excuse me -- 13 miles out to see is not a safety
9 issue because if you want to be safe about it, you
10 remove them before the doctor -- the ship leaves the
11 doctor. Times up. Thanks.

PUBLIC SUBMISSION

As of: July 20, 2008 Tracking No. 806836a9 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0096](#)

W. R. Thuma

Submitter Information

Name: W. R. Thuma

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Toronto, Ontario, Canada, M8V 1Y9

Submitter's Representative: Hillary Clinton

General Comment

041a

It is imperative that the Coast Guard protect its proud tradition of upholding the laws of the seas and not pursue this initiative. Irrespective of the law, the environment of the Great Lakes and for that matter all fresh and salt waters be improved not subject to additional diminished quality.

041b

PUBLIC SUBMISSION

As of: July 20, 2008 Tracking No. 80683be0 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0097](#)

Debra K. Shankland

Submitter Information

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Peninsula, OH, 44264

Government Agency Type: Regional

Government Agency: Cleveland Metroparks

General Comment

042a

Dry cargo dumping is illegal and should remain so. Well over 1 million pounds of this garbage was dumped into the Great Lakes in the 2004-05 shipping season alone. This introduces toxic mercury and other waste into the drinking water of millions of people.

042b

042c

Please end dry cargo dumping. Voluntary control measures do not work. As long as control is optional, there is no incentive for shippers to control their waste dumping.

PUBLIC SUBMISSION

As of: July 20, 2008 Tracking No. 8067e87e Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0095](#)

Wayne Bigelow

Submitter Information

Name: Wayne Bigelow

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Dayton, MN, 55327

General Comment

 **043a**

"Cargo sweeping " should be ended.

PUBLIC SUBMISSION

As of: July 20, 2008 Tracking No. 8068520c Comments Due: December 27, 2004 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0099](#)

Midwest Energy Resources Company

Submitter Information

Organization: Midwest Energy Resources Company

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0099](#) Midwest Energy Resources Company

Fred L. Shusterich
President

DEPT. OF TRANSPORTATION
DOCKETS

Superior Midwest Energy Terminal
P.O. Box 787, West Winter Street, Superior, WI 54880
Tel: 715.392.9807 Fax: 715.392.9137
E-Mail: fshusterich@midwestenergy.com

2008 JUL 18 P 3:05

July 18, 2008

**Midwest Energy
Resources**



Via Fax: (202) 493-2251

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
Attn: Docket ID No. USCG-2004-19621

Dear Sir or Madam:

Re: **U.S. COAST GUARD DOCKET (USCG 2004-19621)
DRY CARGO RESIDUE DISCHARGE IN THE GREAT LAKES
NOTICE OF PROPOSED RULEMAKING
AND AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
FEDERAL REGISTER, VOL. 73, NO. 101, MAY 23, 2008, PAGES 30014-30029**

Midwest Energy Resources Company, a subsidiary of The Detroit Edison Company, has long been and is actively engaged through its Superior, Wisconsin Midwest Energy Terminal in both the domestic Great Lakes and St. Lawrence Seaway System export movements of U.S. Powder River Basin low sulfur western coals. At present, we function primarily in the coordinated annual movement of approximately 10 million tons of Montana and Wyoming coals to Detroit Edison electrical generating stations located in southeastern Michigan. An additional 13 million tons of these western coals are sold and transported annually through our Superior, Wisconsin facility to electrical generating stations and industrial users situated in the Great Lakes region and the Canadian Maritimes.

Efficient movement of coal is extremely important to Midwest Energy Resources Company. As previously noted, each year we ship approximately 23 million tons of U.S. Powder River Basin low sulfur western coals from our facility.

We also respect the environment and always endeavor to meet our obligations to keep the Great Lakes clean and healthy. We have for some time fully utilized Facility Control Measures A-044a through O along with baghouse dust collectors (item Q), as noted on the Bulk Dry Cargo Residue Reporting Form, in the loading of all vessels at our facility.

USCG 2004-19621

Page 2

044b

We are writing to endorse continuation of the policy that allows the washdown of non-hazardous, non-toxic dry-cargo residue on the Great Lakes. Extensive studies have shown that the practice (which in some instances has gone on for well over a century) has no significant environmental impact. In fact, the Draft Environmental Impact Statement (DEIS) finds the effects of dry-cargo residue washdown "barely detectable."

The amount of dry-cargo residue washed down is minute. Again, according to the DEIS, the residue is equal to 0.0006 percent of cargo moved on the Lakes. Continued washdown of dry-cargo residue will have no adverse impacts on the Great Lakes, but will allow U.S.-and Canadian-Flag "Lakers" to operate as efficiently as possible.

044c

The proposed rulemaking does slightly expand the areas where washdown is prohibited. While the DEIS again found that washdown in these areas would not have major environmental consequences, we support these additional measures.

044d

The proposed rulemaking would make mandatory the recordkeeping currently done by vessel operators on a voluntary basis. We understand the purpose here is to facilitate further study. This strikes us as unnecessary given that 10-plus years of studies have concluded the practice does not harm the environment and the fact that cargo residue washdown has taken place for so long. Further study is merited only if a new Great Lakes dry-bulk cargo trade materializes.

044e

044f

Finally, the proposed rulemaking theorizes about possible measures if a Zero Discharge Policy was enacted. It suggests washdown water could be pumped to a treatment facility at the loading or discharge dock. This would be a considerable expense, and again, unnecessary given the benign nature of the practice. We also must note some of our facilities are in remote locations, so it would be impractical to build and operate such treatment systems.

Again, we endorse the proposed rulemaking's finding that dry-cargo residue washdown can continue on the Great Lakes. No harm will come to the environment, and Great Lakes shipping will remain the most cost-effective way to move large quantities of dry-bulk cargos.

Thank you for the opportunity to comment.

Sincerely,


Fred L. Shusterich
President

FLS/cb

PUBLIC SUBMISSION

As of: July 20, 2008 Tracking No. 80683941 Comments Due: December 27, 2004 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0098](#)

Professor David Ramsey

Submitter Information

Name: Professor David Ramsey

Address:

Box 2683 Goulais River
Ontario, Canada, P0S 1E0

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0098](#) Professor David Ramsey

June 27,2008

DEPT. OF TRANSPORTATION
DOCKETS

Dear Coast Guard,

2008 JUL 18 A 10:00

Federal law and an international treaty prohibit ships from dumping waste into the Great Lakes. I understand that since 1993, an interim policy approved by the Coast Guard and Congress has allowed freighters to wash non-toxic cargo residues off ship decks and into the Great Lakes after leaving port. This has resulted in the following debris being swept overboard in the Great Lakes since 2001:

- Lake Huron: 680,300 pounds.
- Lake Superior: 488,012 pounds.
- Lake Michigan: 432,242 pounds.
- Lake Erie: 369,204 pounds.
- Lake Ontario: 38,810 pounds.
- Total: 2,008,568 pounds.

Freighters dump up to two million pounds of leftover cargo -- iron ore, limestone, salt and coal -- into the lakes annually as part of routine ship cleaning operations that have been used for the past century.

045a

Since pleasure boaters that throw trash into the Great Lakes can face fines up to \$50,000 and five years in jail,(according to the Boat U.S. Foundation), then it is contradictory to allow ships to dump their cargo residues..

045b

I am aware that the Coast Guard plans to study the issue for another three years before *determining if the cargo sweepings contaminate the water quality or harm aquatic life.* However, waiting three years to complete a study seems to contradict previous public statements such as the following that the Coast Guard has made :*" We remain concerned that the potential for risk from any practice, no matter how benign it appears to be, may increase over time,... **No matter how minor that risk may be, proper environmental stewardship may require us to take additional steps to reduce the environmental impact of continued dry cargo residue discharges.**"* Further, Coast Guard documents noted that shippers could deal with dry cargo residues, with little added cost, by sweeping and shoveling the material off ship decks instead of washing it into the lakes.

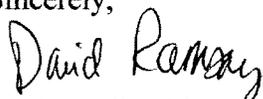
045c

045d

I urge you to stop this practice which violates U.S. and Canadian environmental laws and international treaties, including the Great Lakes Water Quality Act.

I would appreciate a response to my concerns.

Sincerely,



Professor David Ramsay M.S.W. (retired)
Box 2683 Goulais River, Ontario Canada P0S 1E0

13:38:42 1 for a comment.

13:38:42 2 Written comments may be supplied as
13:38:44 3 well.

13:38:45 4 Please remember, you are in the
13:38:47 5 presence of a stenographer who is recording an
13:38:49 6 official transcript that will be entered into
13:38:51 7 the docket for public review.

13:38:54 8 After the comment period here, the
13:38:56 9 stenographer will also be available for
13:39:00 10 additional comments if you would feel more
13:39:02 11 comfortable in a less formal setting.

13:39:06 12 I believe today we only have one,
13:39:10 13 Mr. Nekvasil.

13:39:22 14 MR. NEKVASIL: Thank you. My name
13:39:25 15 is Glen Nekvasil, and I am Vice President of
13:39:29 16 Corporate Communications for the Lake Carriers'
13:39:31 17 Association, and I am going to be commenting on
13:39:32 18 the NPRM.

13:39:50 19 First, a couple words about Lake
13:39:54 20 Carriers' Association. We represent the U.S.
13:39:57 21 flag vessel operators on the Great Lakes. We
13:39:59 22 have 16 members in total. They operate 63
13:40:01 23 vessels. In 2007, we moved 104 million tons of
13:40:05 24 cargo. Iron ore, coal and limestone are our
13:40:08 25 primary cargoes.

13:40:09 1 We are here today to support the
13:40:12 2 continuation of the washdown policy. Your Draft
13:40:14 3 Environmental Impact Statement finds hardly any
13:40:18 4 effects from dry cargo residue washdown. Yet,
13:40:21 5 the practice does allow industry to be as
13:40:23 6 efficient as possible while respecting the
13:40:26 7 environment.

13:40:26 8 I think it is very important that
13:40:28 9 everybody understand that these cargo residues
13:40:30 10 are nonhazardous and nontoxic. Most of the raw
13:40:34 11 materials that move on the Great Lakes basically
13:40:36 12 move in their natural state or as they are
13:40:38 13 mined.

13:40:38 14 Limestone and coal, for example,
13:40:40 15 their size, sometimes they are rinsed. Iron
13:40:43 16 ore, or more appropriately taconite, they do add
13:40:48 17 some clay to it during the pelletizing process.
13:40:51 18 But again, it is largely as it comes out of the
13:40:53 19 ground.

13:40:54 20 The amount of dry cargo residue is
13:40:56 21 truly minute. The Draft Environmental Impact
13:40:59 22 Statement, the trades and the vessels that they
13:41:00 23 studied moved 165 million tons of cargo, yet the
13:41:05 24 amount of DCR that was washed over was only 500
13:41:08 25 tons. That is equal to 0.0006 percent of the

13:41:16 1 cargo transported on the lakes.

13:41:17 2 The highest density of cargo residue

13:41:22 3 on a per acre basis, and that's coal on Lake

13:41:25 4 Erie, is the equivalent of three cups of coal

13:41:28 5 spread evenly over a football field.

13:41:31 6 And if I may, this is three cups of

13:41:37 7 coal. (Indicating.) Spread it evenly over a

13:41:39 8 football field, that is the kind of impact that

13:41:41 9 we are talking about, pretty minute.

13:41:45 10 Just in case someone is saying that

13:41:52 11 the coal trade on Lake Erie must be

13:41:54 12 insignificant, the ports in recent years have

13:41:57 13 been shipping about 15 million tons a year.

13:41:59 14 That trade has actually decreased. If you were

13:42:03 15 to turn the clock back to 1950, Lake Erie coal

13:42:07 16 loading has topped 50 million tons.

13:42:10 17 Again, to repeat, these cargo

13:42:12 18 residues are nonhazardous, nontoxic. The Draft

13:42:16 19 Environmental Impact Statement declares that

13:42:16 20 they are generally chemically benign.

13:42:18 21 And more importantly, the

13:42:20 22 Environmental Impact Statement declares the

13:42:23 23 effects of over a century of DCR sweeping on

13:42:26 24 sediment quality or biological resources are

13:42:28 25 barely detectable. I stress, they are barely

13:42:31 1 detectable.

13:42:32 2 So, we endorse continuation of the 046b

13:42:38 3 washdown policy. We understand the rationale

13:42:40 4 for the slight expansion of the no discharge

13:42:43 5 zones. But we do note that the DEIS said that

13:42:46 6 if it had been continued in those areas, the

13:42:48 7 impacts would have been almost imperceptible.

13:42:52 8 046c The Notice of Proposed Rulemaking

13:42:55 9 encourages vessel operators to use voluntary

13:42:58 10 measures to reduce DCR.

13:43:00 11 This one strikes us as a disconnect.

13:43:02 12 The industry is taking voluntary steps to reduce

13:43:04 13 DCR. The minute amounts that are washed over is

13:43:08 14 proof positive of that.

13:43:10 15 Even some of your handouts back

13:43:13 16 there, your displays, shows the vessels having

13:43:16 17 belt scrapers. We shovel cargo back into the

13:43:19 18 holes. We shovel cargo back onto the conveyor

13:43:22 19 belts.

13:43:22 20 I don't want anybody thinking that

13:43:24 21 this is a case if a vessel operator would buy a

13:43:27 22 few more brooms or a few more shovels, that

13:43:29 23 there would never be any DRC.

13:43:32 24 046d The rulemaking would also make

13:43:34 25 mandatory the recordkeeping that we are doing

13:43:36 1 now on a voluntary basis. We do not think this
13:43:38 2 is necessary. We have been studying this issue
13:43:41 3 now for ten years. The studies, as I said, ten
13:43:45 4 years.

13:43:46 5  And the dry bulk trades on the Great

13:43:48 6 Lakes have existed for a long, long time.

13:43:50 7 Marquette, Michigan has been shipping iron ore

13:43:53 8 since 1852, Duluth since 1892, and we have moved

13:43:58 9 tremendous amounts of cargo on the Great Lakes.

13:44:00 10 Since 1900, the iron ore trade is 7.1

13:44:03 11 billion tons, coal is 4.1 billion tons,

13:44:06 12 limestone is 2.2 billion tons. So when they

13:44:10 13 went down and got their samples off the lake

13:44:12 14 bottom and off the harbor bottom, they were

13:44:14 15 looking at the impacts of a tremendous amount of

13:44:16 16 cargo moved over a tremendous amount of time.

13:44:19 17 So we do not feel that additional

13:44:21 18 recordkeeping or studies are merited. The only

13:44:24 19 instance would be if there was a new dry bulk

13:44:27 20 trade to begin on the Great Lakes.

13:44:30 21 So in summation, again, the practice

13:44:33 22 of cargo residue washdown can continue without

13:44:36 23 any harm to the environment. There is no need

13:44:38 24 for further studies or recordkeeping. There are

13:44:41 25 no unanswered questions. Thank you.

PUBLIC SUBMISSION

As of: July 21, 2008 Tracking No. 806877d2 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0101](#)

Anonymous

Submitter Information

Name: Anonymous

General Comment


 I'm shocked to find out what kind of dumping grounds our waterways have become. This can't go on forever, so I suggest stricter regulations for dealing with these residues NOW. It will continue to be a problem unless these residues are dealt with in a manner that restricts all discharging. Make it mandatory and let the costs be absorbed as needed to keep the planet's water supply clean to start with. It must be collected and treated before being discharged. Begin building facilities to clean the water and put it through the sewer systems now. Waiting to find out results in three years of research seems too late. Let cargo companies pay their fair share or just let them continue to get away with polluting what is sacred, pure water. The price of everything will only continue to increase, so may as well start dealing NOW!

PUBLIC SUBMISSION

As of: July 21, 2008 Tracking No. 80688c97 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0100](#)

Linda L. Rulison

Submitter Information

Name: Linda L Rulison

Address:

15780 Donken Road

Pelkie, 49958

General Comment

048a

Dumping of any materials should not be allowed into the Great Lakes or body of water. The U.S. coast Guard should not allow any cargo, especially limestone, iron ore, coal and grain from commerical vessels into the Great Lakes. It may be convenient but it is not ethical or environmentally responsible. The U.S. Coast Guard should not deviate from federal and internation laws.

048b

048c

PUBLIC SUBMISSION

<p>As of: July 21, 2008 Tracking No. 8068a1bb Comments Due: December 27, 2004 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0102](#)

United States Great Lakes Shipping Association

Submitter Information

Organization: United States Great Lakes Shipping Association

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0102](#) United States Great Lakes Shipping Association



DEPT. OF TRANSPORTATION
DOCKETS

2008 JUL 21 A 9:04

STUART H. THEIS
EXECUTIVE DIRECTOR
7714 WOODSTAR LANE
CONCORD TOWNSHIP
OH 44077-8993
440/357-9104

July 21, 2008

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor – Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
VIA FAX to 202/493-2251

RE: U.S Coast Guard Docket No.
USCG-2004-19621

The United States Great Lakes Shipping Association is a trade association consisting of U.S. vessel agent companies which serve primarily foreign flag vessels calling at Great Lakes ports. These comments are respectfully submitted to the subject Docket in connection with the USGC Proposed Rulemaking and associated Draft Environmental Impact Statement with regard to Dry Cargo Residue (“DCR”) discharge in the Great Lakes.

COMMENT 1 – MAPPING DESIGNATED AREAS

It is noted that one of the features of the USCG approach is the identification of six (6) new sensitive geographic areas whereby DCR will be regulated. These areas are currently described only by written map coordinates in the documentation. ~~It is suggested that either in any Executive Summary, in an Appendix or elsewhere in the existing documentation, an actual map or maps be provided showing~~ 049a

- 1) Any sensitive areas previously designated and
- 2) The six new sensitive areas now so designated

By using actual maps, possibly overlays and/or distinguishing colors as to what commodities are covered and where, a reader can more effectively understand the size and scope of the newly defined areas as well as see any differences from previously identified areas.



2.

COMMENT 2 – MANDATORY RECORD KEEPING

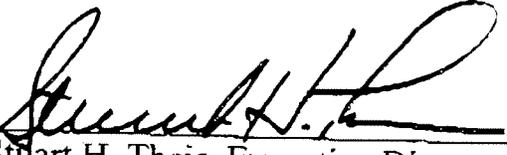
049b

At a Public Meeting conducted by USCG regarding the subject Docket on July 17, 2008, in Cleveland, Ohio, Lake Carriers' Association delivered oral testimony which, among other things, questioned the utility and scope of the new record keeping requirements in the proposed form as well as it representing an undue burden on operators which already are required to manage and file an ever growing number of reports and records to be kept for government compliance. Our organization agrees with the Lake Carriers' observations. As many seek to attract greater use of our waterways to alleviate the burdens of truck and rail operations, increased paperwork is just another negative element to bringing new commerce to our region. We suggest that the utility of the information obtained or using it as a compliance tool is doubtful on balance. We suggest that if some record needs to be made, steps be taken to simplify things further. Log book entries subject to inspection may suffice.

We appreciate the opportunity to provide these comments. Should you have any questions or require anything further, contact numbers are included with this document.

Respectfully submitted,

UNITED STATES GREAT LAKES SHIPPING ASSOCIATION

By 
Stuart H. Theis, Executive Director

PUBLIC SUBMISSION

<p>As of: July 21, 2008 Tracking No. 8068a380 Comments Due: July 22, 2008 Late comments are accepted</p>
--

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0103](#)

Ann E. Baughman

Submitter Information

Name: Ann E Baughman

Address:

10260 Chickagami Trail

Brutus, MI, 49716

Submitter's Representative: Rep. Bart Stupak

General Comment

050a

The Coast Guard should be developing rules that set standards and deadlines to virtually eliminate dry cargo dumping to protect the Great Lakes- St. Lawrence River ecosystem and comply with the law! Dumping dry cargo is pollution and harmful to our ecosystem that is on the edge of failure from invasive species, wastewater, and impacts from climate change.

050b

050c

PUBLIC SUBMISSION

<p>As of: July 21, 2008 Tracking No. 8068aaf1 Comments Due: December 27, 2004 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0104](#)

Lake Carriers' Association

Submitter Information

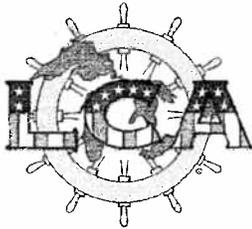
Organization: Lake Carriers' Association

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0104](#) Lake Carriers' Association



Lake Carriers' Association

The Greatest Ships on the Great Lakes

JAMES H. I. WEAKLEY, PRESIDENT

216-861-0590 • weakley@lcaships.com

July 18, 2008

Via Fax: (202) 493-2251

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
Attention: Docket ID No. USCG-2004-19621

DEPT. OF TRANSPORTATION
DOCKETS
2008 JUL 21 P 1:42

Dear Sir or Madam:

**U.S. COAST GUARD DOCKET (USCG 2004-19621)
DRY CARGO RESIDUE DISCHARGE IN THE GREAT LAKES
NOTICE OF PROPOSED RULEMAKING
AND AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
FEDERAL REGISTER, VOL. 73, NO. 101, MAY 23, 2008, PAGES 30014-30029**

Lake Carriers' Association represents 16 American corporations that operate 63 U.S.-Flag vessels on the Great Lakes. These vessels carry the raw materials that drive our country's economy: iron ore for the steel industry, limestone for the construction industry, coal for power generation, These vessels can transport more than 115 million tons of cargo in a given year when high water levels offset the lack of dredging at Great Lake ports and waterways.

The question of continuing to allow the washdown of small amounts of dry-cargo residue (DCR) from U.S.-Flag Lakers (Canadian-Flag too) is of critical importance to our members and the American economy. We appreciate the painstaking research and examination of the facts that have lead to the conclusion that the practice can continue without any harm to the environment. This is a sterling example of respect for the environment and the needs of commerce. No harm will come to the Great Lakes, but they will remain one of the pillars of America's industrial transportation system.

051a

We have long believed that washdown of small amounts of cargo residue posed no threat to the Great Lakes environment. The Draft Environmental Impact Statement (DEIS) confirms our belief. Page after page of the DEIS confirms that the washdown of dry-cargo residue will not degrade the Great Lakes environment.

Continued . . . /

Suite 915 • 614 West Superior Avenue • Cleveland, Ohio 44113-1383 • Fax: 216-241-8262 • Web site: www.lcaships.com

Representing Operators of U.S.-Flag Vessels on the Great Lakes Since 1880

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THE INTERLAKE STEAMSHIP COMPANY • KK INTEGRATED LOGISTICS • LAKES SHIPPING COMPANY • LAKE MICHIGAN CARRIERS SERVICE • PERE MARQUETTE SHIPPING
SOO MARINE SUPPLY, INC. • UPPER LAKES TOWING COMPANY, INC. • VAN ENKENVORT TUG & BARGE INC.

LAKE CARRIERS' ASSOCIATION
Docket Management Facility
U.S. Department of Transportation
U.S. Coast Guard Docket (USCG-2004-19621)

July 18, 2008
Page 2 of 4

It might be best, however, to first stress that the amount of dry-cargo residue being washed down is truly minute. As the DEIS notes on page 1-9, "the weight of swept DCR was approximately 0.0006 percent of the cargo transported." This is further quantified on page IV of the Executive Summary: "Based on voluntary (emphasis added) industry recordkeeping, the amount swept annually is small compared to the total amount of cargo transported (approximately 500 tons compared to 165 million (emphasis added) tons transported)."

Nothing better illustrates the inconsequential amount of DCR being swept over than this finding on page 3-18 of the DEIS: "The highest track line DCR density (emphasis added) (coal on Lake Erie) was equivalent to approximately three cups of coal being evenly distributed over a football field."¹

051b

This is a very important frame of reference. The general public must understand that the practice **does not** involve significant volumes of dry-cargo residue. Nor will it in the future, even if cargo movement increases. If anything, continued refinement of shipboard and dockside practices will further reduce the amount of DCR. It's simply good business. The cargo owner is paying for that iron ore, coal, limestone, It is in both the dock's and the vessel operator's best interest to load and deliver as much of that cargo as humanly possible. Vessel operators have already taken voluntary steps to reduce the volume of cargo residue, and two previous studies conducted by environmental contractors on behalf of the U.S. Coast Guard documented the significant progress.

051c

The public and regulators need to also understand that much of the raw materials that move on the Lakes are shipped in more or less their natural state. Coal and limestone, for example, are sized and sometimes rinsed prior to loading into the vessel (or the train that will transport the commodity to the loading dock). Only iron ore (taconite pellets) requires a binding agent during the pelletizing process.

051d

But most importantly, none of these cargos are toxic or hazardous. As the DEIS notes on page 2-15, "...DCR are generally chemically benign...." On page 4-5, the DEIS further finds that "the effects of over a century of DCR sweeping on sediment quality or biological resources are barely detectable."

Paragraph after paragraph of the DEIS reiterates that the washdown of DCR will not harm the Great Lakes environment, so we fully endorse the continuation of the practice. As good corporate citizens and men and women who live along the shores of the Great Lakes, we want these Lakes to be healthy. From "nine to five" they are our workplace, but when we go home at the end of day, they are our drinking water and a source of rest and relaxation. That's why a respect for the environment is part of every business decision we make.

051e

The proposal does prohibit DCR washdown in certain special areas where they are now allowed. These are areas that contain wildlife refuges, designated protection areas, or other habitats that are especially sensitive environmentally. The DEIS indicates that DCR sweepings have a minor (emphasis added) environmental impact on these areas. We understand the need to minimize impacts on areas such as spawning grounds, etc., so do not object to the additional no discharge areas.

¹ The coal trade on Lake Erie is significant. The ports of Toledo, Sandusky, Ashtabula, Conneaut (all Ohio) and Buffalo, New York, typically ship 15 million tons a year. Historically, the trade used to be much greater. In 1950, for example, coal loadings at Lake Erie ports topped 50 million tons.

LAKE CARRIERS' ASSOCIATION
 Docket Management Facility
 U.S. Department of Transportation
 U.S. Coast Guard Docket (USCG-2004-19621)

July 18, 2008
 Page 3 of 4

The proposed rulemaking's "encouragement" of U.S. and foreign carriers moving dry-bulk cargo on the Great Lakes to voluntarily use measures to control the amount of DCR strikes us as a bit of a disconnect. Our members **are** (and have been for more than a decade) voluntarily using such measures. The minute amounts of DCR are proof positive of that. As we noted earlier, there may be some refinements in shipboard and shoreside practices, but we do not want anyone getting the impression that there are a host of additional steps vessel operators can take. Our members have installed belt scrapers. They instruct the dock to suspend loading when the vessel is being shifted. Deckhands do shovel spillage back into the hold or back onto the conveyor belt

051f

The proposed rulemaking also makes mandatory the recordkeeping the industry has been doing on a voluntary basis so there can be further analysis of the impacts of DCR washdown. We question the necessity of this for the simple reason that we wonder what more there is to study. Dry-cargo residue sweepings have been taking place for a long, long time. The first iron ore cargo was loaded in Marquette, Michigan, in 1852. That's 156 years ago. The iron ore trade out of Duluth, Minnesota, dates to 1892. Sandusky, Ohio, has been shipping coal since that same year. The limestone quarry at Calcite (Rogers City), Michigan, has been in operation since 1912. When samples of DCR were taken off Lake and harbor bottoms, we were examining the accumulations and, therefore, impacts of a hundred-plus years in many instances.

051g

Consider the amount of dry-bulk cargo that has moved on the Great Lakes. Since 1900, totals for iron ore, coal, and limestone are as follows:

- Iron Ore..... 7.1 billion net tons
- Coal..... 4.1 billion net tons
- Limestone 2.2 billion net tons

These are tremendous volumes, so the samples taken and analyzed showed the long-term impacts of DCR sweepings. Therefore, we do not believe further study or continued recordkeeping are merited, except should a new cargo trade develop.

051h

The proposed rulemaking discusses the possibility of zero discharge of dry-cargo residue as an option for the future. We do not believe that this course of action should be considered, given the almost imperceptible impacts on the environment. And, as the proposed rulemaking notes, the costs to industry and its customers would be considerable – as much as \$373 million over a 10-year period. The imposition of such extraordinary costs would surely shift cargo to modes of transportation that have greater environmental and societal impacts. Trains and trucks use more fuel and produce more emissions than ships and tug/barge units. It would take 700 railcars or 2,800 trucks to equal the per-trip carrying capacity of just one of our largest ships. A total ban on the discharge of dry-cargo residue would harm the very environment it seeks to protect.

051i

We must also note that this zero discharge assumes that washwater pretreatment facilities would be built, 181 in total. This fails to recognize that many shipping and receiving docks do not have unused space to fit such facilities. Also, many docks are in remote locations. Connections to local sewer lines would not be easy, and we question the ability of the region's combined sewer outflows to handle the additional volumes.

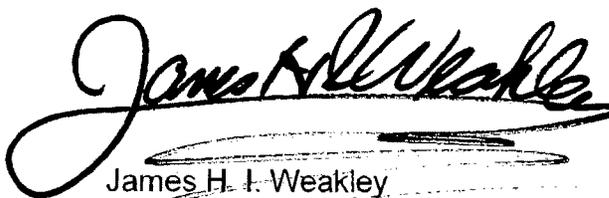
LAKE CARRIERS' ASSOCIATION

Docket Management Facility
U.S. Department of Transportation
U.S. Coast Guard Docket (USCG-2004-19621)

July 18, 2008
Page 4 of 4

Again, given the negligible impacts on the environment and the astronomical costs associated with a zero discharge policy, we believe that option does not merit further consideration. The proposed course of action – continuation of DCR washdown, with a slight expansion of no discharge zones, protects the environment while allowing waterborne commerce to meet the needs of industries that are vital to our standard of living and national defense capabilities. The studies that lead to this conclusion were exhaustive and spanned more than a decade. There are no unanswered questions. Let's implement the proposed rulemaking and proceed, confident that we have met our environmental obligations and found the optimal balance.

Sincerely,



James H. J. Weakley
President

JHIW:GGN:lca

g:\weakley\0-letter\2008\2008-0722 - npr - dcr discharges.doc

cc: Members – LCA Board of Directors
Members – LCA Fleet Engineers
Members – LCA Navigation Committee

PUBLIC SUBMISSION

As of: July 22, 2008 Tracking No. 8068b2d9 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0105](#)

Judith R. Johnston

Submitter Information

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224 Everts Place

Highwood, IL, 60040

Submitter's Representative: Mark Kirk

General Comment

052a

We need to clean up the Lakes, not add to their contamination.

052b

Many of the cargo residues -- especially iron ore and taconite -- contain mercury and other toxic metals that can harm natural habitats in the lakebeds, as well as people who eat fish contaminated by the metals.

The Coast Guard should develop rules to eliminate dry cargo dumping into the Great Lakes in order to protect the Lakes and comply with international law.

052c

PUBLIC SUBMISSION

As of: July 22, 2008 Tracking No. 8068b367 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0106](#)

Neely H. Bostick

Submitter Information

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Morrison, CO, 80465

Government Agency Type: Federal**Government Agency:** DOI

General Comment

053a

~USCG_Cargo Sweeping_a80721 for Docket USCG-2004-19621

FLOATING METALLURGICAL COKE FROM DCR SWEEPING.

The USCG has responded to a previous statement that floating DCR should be specially evaluated as follows: ?????????neither scoping or review of existing literature identified floating DCR as an issue????????? [Docket ID USCG-2004-19621-0019]. This comment and the USCG response were in relation to cargos of Metallurgical COKE. I have looked at some further information to evaluate again this type of DCR.

The source of information on quantity of COKE I found is <outreach.lrh.usace.army.mil/industries/coal/coal%20GL.htm.> According to that source (2005) COKE shipping in the Lake Basin was about 2.4 million tons [coal was 39.9 million tons]. Since COKE has a shipping bulk density [~25 lb./cu.ft.] about ?????? that of lump coal, that figures COKE volume about 1/10 the coal volume.

The USCG 2008 DEI estimates 142 tons of coal+coke swept as DCR. Since estimates derive from observations of volume, the COKE share would be about 14 tons. Users of COKE prefer to maximize lumps larger than about 1 inch, with fines minimized. So perhaps 90% of shipped/spilled coke would be of size much greater than the pore size so would have a specific gravity slightly less than water (~0.9 apparent specific gravity). Perhaps 10 tons of coke would float.

Metallurgical COKE is a very specialized cargo so shipping routes would be few. I would expect some evidence of COKE DCR accumulation in shore sediments. However, even if about 10 tons of COKE / year were to reach shores I find no data on toxicity of COKE though there is much toxic material produced in the manufacture of coke. For an introduction to that subject see Carl W. Gehrs, et al (1981) Environmental, Health and Safety Implications of Increased Coal Utilization., p. 2159-2223 IN Martin A Elliott (ed.) Chemistry of Coal Utilization, 2nd Supplementary Volume. J.Wiley & Sons. For an example of analysis of coke-like materials (and associated trace elements) in sediments see: M. Mastalerz, et al. (2001) Anthropogenic organic matter in the Great Marsh of the Indiana Dunes National Lakeshore and its implications. Intl. Jour. Coal Geology, V.46, P.157-177.

PUBLIC SUBMISSION

As of: July 23, 2008 Tracking No. 8068cf6e Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0111](#)

Shipping Federation of Canada

Submitter Information

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Montreal, Quebec, Canada, H2Y 1X4

Organization: Shipping Federation of Canada

General Comment

Please find here attached our comments on the Notice of Proposed Rulemaking (USCG-2004-19621) about Dry Cargo Residue Discharges in the Great Lakes.

Should

you need additional information, please do not hesitate to contact the undersigned.

Caroline Gravel

Director, Environmental Affairs

Shipping Federation of Canada

T: (514) 849-2325

F: (514) 849-8774

Attachments

[USCG-2004-19621-0111.1](#) Shipping Federation of Canada



July 22, 2008

Docket Management Facility (USCG-2004-19621)

U.S. Department of Transportation

West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Re: Dry Cargo Residue Discharges in the Great Lakes; Notice of Proposed Rulemaking (USCG-2004-19621)

To Whom It May Concern:

The Shipping Federation of Canada, which represents over 90 percent of ocean-going vessels (international cruise and cargo) trading to and from ports in Atlantic Canada, the St. Lawrence and the Great Lakes, wishes to make the following comments with respect to the review of the Interim Enforcement Policy on discharges of dry cargo residues.

The exercise undertaken with the *Draft Environmental Impact Statement: U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes* has provided a welcome baseline assessment on the environmental impact of such practices. Hopefully, this report, documenting the practices, environmental consequences, mitigation measures, cumulative impacts and alternatives, will be used in the future as a baseline reference with regard to impacts of dry cargo residues discharges in the Great Lakes. We support the U.S. Coast Guard conclusions – namely, that because of the uncertainty in effectiveness and costs of DCR control measures, action should be limited to the continuation of the Interim Enforcement Policy with additional recordkeeping, which will provide the USCG with information on dry cargo residues control measures to inform possible future rulemaking.

THE SHIPPING FEDERATION OF CANADA
300 St. Sacrement, suite 326
Montreal QC H2Y 1X4
Tel : (514) 849-2325 / Fax : (514) 849-8774
www.shipfed.ca

1

In our comments submitted in 2006, and in the current document, the Federation expressed support for the adoption of the “Interim Enforcement Policy” as the basis for permanent regulations. As such, we will limit our comments on three aspects of the proposed rulemaking.

↙ 054a

1. Definition of Cargo Sweeping

We would suggest replacing the expression “*cargo sweeping*” with “*cargo disposal*”. Since disposal of cargo residues may either be in the form of sweepings or washings, the use of the expression “*cargo sweeping*” may incur some confusion for a foreign ship master as to what is actually allowed under the policy. Thereby, the use of “*cargo disposal*” would remove the confusion related to the disposal method.

↙ 054b

2. Section IV.A: Use of Voluntary Control Measures

In section IV.A *Control Measures*, it is mentioned that the proposed rule would encourage U.S. and foreign carriers conducting dry bulk cargo operations on the Great Lakes to implement voluntary control measures. Such best practices are included in Green Marine’s [Environmental Program of the St. Lawrence and Great Lakes Marine Industry](#), which defines actions to go beyond regulatory requirements for a number of environmental issues related to the marine industry. Since dry cargo residue discharges are part of this program for a continuous improvement of the industry’s environmental performance, we would recommend, should the U.S. Coast Guard decide to credit carriers for their pro-activeness, to recognize the program requirements in the voluntary measures eligible for credits.

↙ 054c

3. Section IV.B: Record-Keeping Procedures

The proposed record-keeping procedures in section IV.B, adds additional reporting requirements in terms of the logging of loading / unloading operations. While we understand that this information is necessary to inform future U.S. Coast Guard decisions with regard to dry cargo residues practices, we would stress that these requirements be harmonized as much as possible with international practices under MARPOL Annex V. Ocean going vessels are required to record the manner in which they dispose of cargo residues, by recording this information in the vessel’s Garbage Record Book as per MARPOL, Annex V: i.e., date, time, estimated amount discharged as well as the position of the ship at the beginning and end of discharge. While we understand that it is but a minority of the ships conducting discharge of cargo residues in the Great Lakes that are foreign-flagged, we cannot stress enough that the requirements must be manageable from an operations standpoint for the implementation of successful changes to the policy.

Towards that end, we would like to suggest a modification in the records submission procedures mentioned in section IV.B. The proposal is for carriers to keep the records onboard for at least two years, and submit copies of the records to the U.S. Coast Guard on a quarterly basis. We would recommend the submission of the records to either request the records to be emailed when leaving

the Great Lakes, or submit the form to the U.S Coast Guard at Massena. This would ensure that the U.S. Coast Guard receives the data necessary for the analysis of costs and benefits related to particular control measures from ships that do not transit the Great Lakes on a regular basis. To implement quarterly submissions would rapidly become unmanageable for a ship transiting in the U.S. waters of the Great Lakes on an irregular basis.

Before closing, we would also take this opportunity to reiterate our commitment to the development and promotion of an environmentally responsible and sustainable marine transportation system, and our willingness to collaborate with the U.S. Coast Guard in its efforts to update the dry cargo residues Interim Enforcement Policy. Towards that end, we would be pleased to provide any additional clarification or information you may require.

Respectfully submitted,

Caroline Gravel
Director, Environmental Affairs
Shipping Federation of Canada

The Shipping Federation of Canada (The Federation), incorporated by an Act of Parliament in 1903, acts as the pre-eminent voice of shipowners, operators and agents involved in Canada's world trade. Its overall objective is to work towards a safe, competitive and environmentally sustainable marine transportation system. The Federation's membership consists of the Canadian companies that own, operate or act as agents for 95 percent of ocean vessels trading to and from ports in Atlantic Canada, Newfoundland & Labrador, the St. Lawrence River and the Great Lakes – vessels which are responsible for transporting virtually all of the trade moving between eastern Canada and ports overseas. The Federation's members also represent virtually all the international cruise vessels calling at eastern Canadian ports.

PUBLIC SUBMISSION

<p>As of: July 23, 2008 Tracking No. 8068d270 Comments Due: December 27, 2004 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0113](#)

Pennsylvania Department of Environmental Protection

Submitter Information

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Harrisburg, PA, 17105-2063

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0113](#) Pennsylvania Department of Environmental Protection



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
July 22, 2008

Water Planning Office

717-772-5622

Document Management Facility
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590

DEPT. OF TRANSPORTATION
DOCKETS
2008 JUL 22 P 12:03

Re: U.S. Coast Guard Document Number USCG-2004-19621

Dear Sir or Madam:

These comments respond to the U.S. Coast Guard's May 23, 2008, request to John Hines, Executive Director of this Office, for comments concerning the United States Coast Guard's DRAFT Environmental Impact Statement (DEIS) for the Dry Cargo Residue Discharges in the Great Lakes rulemaking. The DEIS discusses the environmental impacts associated with the proposed regulation of the discharge of dry cargo residue into the Great Lakes.

055a

The Water Planning Office (WPO) disagrees with the U. S. Coast Guard's (USCG) selection of Alternative 2 as the Preferred Alternative. Alternative 2 would continue current dry cargo sweeping practices in accordance with the Interim Enforcement Policy. Alternative 2 also calls for mandatory record keeping concerning the practice of sweeping Dry Cargo Residue (DCR) overboard. This information may be used by the USCG in their development of potential future regulations governing the sweeping of DCR. WPO's objection to the continued sweeping of DCR overboard is that allowing the discharge of DCR into Pennsylvania's Lake Erie waters is contrary to the Pennsylvania Clean Streams Law (Act of 1937, PL 1987, No. 394).

055b

We also believe the continued sweeping of DCR overboard in the manner authorized under the proposed rulemaking (73 FR 30014) is inconsistent with the Federal Clean Water Act as well as the recently proposed NPDES Vessel General Permit for Discharges Incidental to the Normal Operation of Commercial Vessels issued by the U.S. Environmental Protection Agency. This is particularly inconsistent with Part 2.2.1. of the proposed General Permit. Part 2.2.1. provides, in relevant part, that "[v]essel owner/operators must clear their vessels' decks of debris, garbage residue and spills prior to conducting deck washdowns and prior to departing from port to prevent these constituents from entering any waste stream."

055c

The USCG should reevaluate the alternatives available to minimize or eliminate DCR discharges, and their potential effects on Lake Erie (especially as related to potential nearshore impacts to the Pennsylvania waters of Lake Erie). Specifically, mandatory (rather than voluntary) physical

Document Management Facility

- 2 -

July 22, 2008

controls and operational best management practices should be required of all bulk dry cargo carriers to minimize the discharge of cargo residues. WPO would support a combination of the requirements of Alternatives 4 and 5 as the Preferred Alternative. Alternative 4 requires structural, mechanical and operational changes on ships, and Alternative 5 requires shoreside measures at port facilities. These requirements would reduce or eliminate the amount of DCR swept into Lake Erie.

055d

The FINAL Environmental Impact Statement (FEIS) should contain a listing of all international agreements, Canadian laws, federal and state laws (U.S.) that regulate the discharges into Great Lakes' waters, and a discussion on whether each of these laws / agreements prohibit the discharge of DCR into Great Lakes' waters.

055e

The DEIS analysis was limited to the potential for DCR discharges to provide additional colonization habitat for non-native, invasive zebra and quagga mussels (Aquatic Invasive Species), and the associated environmental impact was found to be insignificant. However, the risk of dispersing organisms already present in the dry bulk cargo, cargo holds, ship decks and cargo handling equipment was not addressed. ~~The DEIS acknowledges that the "dry" bulk cargo in the cargo holds of bulk cargo carriers may in fact be wet as a result of rain, snow, or spraying for dust suppression (p. 1-8). Given the fact that certain non-native aquatic organisms are known to persist in the sludge of reportedly dewatered ballast tanks (i.e., NOBOB vessels), this potential dispersal vector should be explicitly evaluated in the Final Environmental Impact Statement.~~

055f

055g

The DEIS analysis on impacts to fisheries was also limited, and no significant impacts were expected. However, certain ecologically important (e.g., lake trout) and recreationally important (e.g., smallmouth bass) fish species are known to spawn on rocky substrate in the nearshore zone of the Pennsylvania's Lake Erie waters. A potential for the physical fouling of spawning ground sites exists if continued discharges of certain DCRs (e.g., limestone) are allowed to continue in the nearshore zones. Please discuss impact that DCRs will have upon nearshore spawning ground sites. WPO believes that the discharges of limestone and other clean stones should not be allowed to continue within 3 statute miles of shore.

055h

Please send the WPO a draft copy of the FEIS for our review.

Thank you for this opportunity to comment.

Sincerely,



Lawrence J. Toth
Environmental Planner
Coastal Resource Management Program
Water Planning Office

Document Management Facility

- 3 -

July 22, 2008

bcc: John Hines – 16th Fl
Bill Cummings – 9th Fl
Jim Grazio – DEP, NWRO
Lori Boughton – DEP, NWRO
James Rozakis – DEP, NWRO
Don Benczkowski – DEP, NWRO
John Booser
Andy Zemba
Gary Obleski
Shamus Malone
Larry Toth
CRM File No. CZ7:FDP
16th Floor

LJT:ses

PUBLIC SUBMISSION

<p>As of: July 23, 2008 Tracking No. 8068d498 Comments Due: December 27, 2004 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0112](#)

Minnesota Pollution Control Agency

Submitter Information

Organization: Minnesota Pollution Control Agency

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0112](#) Minnesota Pollution Control Agency



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, MN 55155-4194 | 651-296-6300 | 800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us

July 21, 2008

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20590-0001

RE: Coast Guard Docket Number USCG-2004-19621
Dry Cargo Residue Discharges in the Great Lakes

2008 JUL 22 P 2:01
DEPT OF TRANSPORTATION
DOCKETS

In response to the U.S. Coast Guard's proposed rule and current policy on dry cargo residue discharges in the Great Lakes, as noticed in the Federal Register, Vol. 73, No. 101, dated May 23, 2008, the Minnesota Pollution Control Agency (MPCA) provides the following comments:

056a
1. Minnesota solid waste rules prohibit the disposal of solid waste into waters of the State of Minnesota, including Lake Superior. In this case, the solid waste is created when an industrial commodity (coal, taconite, limestone, salt, etc.) is spilled onto ship decks during loading operations. Unless recovered for use, this material becomes a solid waste and must be properly managed. In Minnesota, solid waste disposal is allowed only at permitted solid waste facilities that are properly sited, constructed, and operated to prevent the contamination of surface and ground water. Generators of solid waste are responsible for ensuring that the solid waste they generate or collect is properly disposed at an authorized facility. Minn. R. 7035.0800; Minn. Stat. § 116.081. Unless preempted by federal law, a ship that is disposing its dry cargo residue by dumping it into Minnesota waters, including Lake Superior, may be subject to administrative or judicial penalties for violation of Minnesota laws. Minn. Stat. § 115.071; Minn. Stat. § 116.072.

056b
2. Minnesota water quality rules also apply when an industrial waste is discharged into waters of the state creating nuisance conditions. Minnesota has adopted a general water quality standard prohibiting any discharges that result in nuisance conditions. Minn. R. 7050.0210, subp.2. The washing of taconite dust or coal and coal dust and other dry cargo waste into Lake Superior causes excessive suspended solids during and after the discharge. The Coast Guard is incorrect in its assumption that these materials will not remain in suspension and that the dumping of these materials will not cause nuisance conditions in the coastal waters. Coal has been observed and collected by the MPCA on the shoreline beach of Minnesota Point, Duluth. This coal did not dissolve or dissipate in the waters of the lake but instead, floated and accumulated along the beach in Duluth. This is considered by the MPCA to constitute nuisance conditions prohibited by the cited water quality general standard.

056c

3. The proposed Coast Guard rule on dry cargo residue appears to be in conflict with the U.S. Environmental Protection Agency's proposed NPDES Vessel General Permit for Commercial and Large Recreational Vessels [Docket ID No. EPA-HQ-OW-2008-0055]. Section 2.2.1 of the proposed permit, Deck Washdown and Runoff, requires that the vessel's decks be clear of "debris, garbage, residue and spills prior to conducting deck washdowns and prior to departing from port to prevent these constituents from entering any waste stream." It also states that . . . "discharges from deck washdowns must be free from floating solids . . ." These are permit requirements that will have a direct affect on how dry cargo residue will be allowed to be handled in the near future.

056d

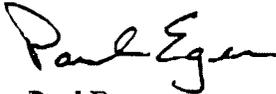
4. In the Federal Register public notice on the proposed dry cargo residue rule, under Part V., Regulatory Evaluation, Subp. E., Federalism, it states that the proposed rule "does not have implications for federalism." However, since the proposed rule appears to preempt Minnesota State law as described above, implications for federalism are present.

056e

5. Although briefly mentioned in the Coast Guard's draft Environmental Impact Statement on the proposed rule, the roles and responsibilities of the onshore loading facilities need to be addressed if this issue is going to be resolved. Efforts need to be made by all parties to assist the loading facilities in determining the cause of the spillages, the means of preventing them and techniques for spillage clean up. Adoption of the proposed rule would create a disincentive for the onshore loading facilities to improve material handling techniques.

Thank you for the opportunity to provide comments on this proposed rule.

Sincerely,



Paul Eger
Assistant Commissioner
Minnesota Pollution Control Agency

PUBLIC SUBMISSION

As of: July 23, 2008 Tracking No. 8068d4e5 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0110](#)

Canadian Shipowners Association

Submitter Information

Name: Donald Morrison

Address:

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Ottawa, Ontario, Canada, K1R 7S8

Submitter's Representative: Andrew Losos

Organization: Canadian Shipowners Association

General Comment

Please see attached document (filename: Detailed Comments of the Canadian Shipowners Association to USCG - 21 Jul 08.doc) for our detailed comments on the proposed rulemaking. Thank you.

Attachments

[USCG-2004-19621-0110.1](#) Canadian Shipowners Association



**Detailed Comments of the Canadian Shipowners Association
to the United States Coast Guard
Regarding the proposed Rulemaking on Dry Cargo Residue Discharges in
the Great Lakes (Docket No. USCG-2004-19621)**

July 21, 2008

The Canadian Shipowners Association (CSA) represents the owners of ships trading in the Great Lakes and St. Lawrence Seaway. The Canadian fleet is comprised of some 68 vessels that carried 75 billion tonne-km of cargo in 2007. More than half of our annual cargoes are carried between Canada and the United States. The fleet provides Canadian and American communities and industries with reliable, economic and environmentally sustainable transportation. Quietly effective, the Canadian marine transportation industry plays an essential role in the industrial and natural resources economies of Canada and the United States.

The CSA and its member companies recognize our responsibility to maintain a marine transportation system that is environmentally sustainable. This is accomplished through the application of an Environmental Management System to all facets of operations and management, and through participation in Green Marine, a program of continuous improvement of environmental performance.

Section III, Background and Purpose

The CSA supports the intent of the USCG to seek an appropriate balance between commercial and environmental considerations and to avoid or minimize any gap during which enforcement of a zero discharge policy takes place by default.

← 057a

We also suggest that the rulemaking contain language differentiating “dry cargo residue” from “cargo sweepings,” which appear to be used in different senses within the industry. Some take the two to be synonymous, while others consider DCR to be the physical product and cargo sweeping to be the act of clearing the ship of DCR. Clear definitions of “DCR” and “cargo sweeping” will be important in ensuring uniform application of the rule.

Section IV-A: Control Measures

The notice indicates that the proposed rule would encourage carriers conducting dry bulk cargo operations on the Great Lakes to make voluntary use of measures to control and reduce the amount of DCR that falls on a ship's deck or within a ship's unloading tunnels. CSA vessels do employ and encourage the use of such measures, and will continue to implement improvements as they are identified.

It is worth reiterating here the finding of the Draft Environmental Impact Statement that DCR represents only approximately 0.0006 percent by weight of the cargo transported, and that the dispersion of those residues through the motion of the ship and of the water column leads to very low final concentrations of residues on the lake bottom. Over a hundred years' experience with the accumulation of these residues have shown that the long-term impact of DCR is negligible.

Section IV-B: Record-keeping and reporting

057b

We are concerned that the USCG, through the record keeping requirement, also intends to collect information on control measures employed by the shore-side facilities. Inclusion of this information in the vessel reporting form implies that the responsibility to implement shore-side control measures belongs to the vessels. The "facility" is generally not owned or operated by the vessel owner and the vessels may not be aware of what control measures are used at the load/unload facility. In addition, the vessels do not have the authority to employ or require facility / shore-side control measures and as such should not be required to document the type of control measures or the time to implement such. We would propose that the USCG obtain this information through monitoring of the load/unload facilities.

057c

We are concerned that the proposed rulemaking does not convincingly show the benefits to be gained from additional record-keeping on DCR discharges. This proposed measure would represent an increased administrative burden for Canadian shipowners, and we do not believe that the environmental value of imposing this burden has been adequately demonstrated.

Section IV-C Special Areas

Our Association recognizes the importance of affording increased protection to marine protected areas, sensitive wildlife habitat, etc. As a result, we understand the measures in the proposed rulemaking that would designate additional protected areas for this purpose, despite the fact that DCR would likely have a negligible environmental impact in these areas. It is best to err on the side of caution and apply the precautionary principle in this case.

The geographical coordinates of the Thunder Bay National Marine Sanctuary, the Northern Refuge, Isle Royale National Park, and the Detroit River National Wildlife Refuge are not presently included in the proposed rule and should be added.

← 057d

The USCG should also consider producing charts illustrating the prohibited DCR discharge areas.

Table 151.66(B) – Bulk Dry Cargo Residue Discharges Allowed on the Great Lakes

← 057e

The proposed rule and the current IEP specifically reference those cargoes the US Lake Carriers transport, such as coal, iron ore, salt, stone and cement. It would be helpful for regulatory certainty for the USCG to provide a framework for assessing the acceptability of cargo types which could fall under the category of “other”; for instance, sugar, oxides, furnace coke, petroleum coke, fly ash and slag.

Form 151.66(C) – Bulk Dry Cargo Residue Reporting Form

We have the following specific concerns regarding this form:

- As noted above, the reporting form will require documenting information for not only the vessel but also the control measures used at the load or unload “facility”. This information is not available to the vessels and should be removed from the reporting form.
- “Time spent to implement control measures” – As above, “facility” information related to this is not available to the vessel crew.
- ← 057f
- “Estimated residue to be swept into water” – This information is to be recorded in the “For Cargo Loading and Unloading Operations” section of the reporting form as proposed. However, as discharge of DCR is prohibited in port, the column “estimated residue to be swept into water” should be moved to the “For Residue Sweeping Operations Only” section of the reporting form. The current location of this column may lead the form user to believe that DCR sweeping at the load/unload location is acceptable.
- ← 057g
- “Estimated residue to be swept into water” – This term should be defined to note that it includes residues that are hosed down into sumps and then discharged overboard in the authorized geographic areas.
- ← 057h
- The form uses the term “residue sweeping operations”. A definition of “residue sweepings” is not included in and should be added to the rule.

057i

- The requirement to document cargo type and load/unload facility may compromise customer confidentiality agreements.

057j

- Also of concern is the proposed submission of the completed Form to the USCG on a quarterly basis. We suggest that a semi-annual or annual submission would be less onerous for the vessel and will likely still achieve the intent of the USCG to compile the desired information.

Conclusion

The CSA views the environmental impact of DCR discharges as a relatively well-understood phenomenon. Recent studies have measured over a hundred years of accumulations and these studies have already documented the long term impact of cargo residues, which is essentially negligible. In view of this, we are encouraged by the proposed rulemaking which acknowledges the minimal environmental impact of these discharges. We will continue to employ and to refine our management practices to minimize the quantities of residues discharged.

We are, however, concerned that increased record keeping would impose an unnecessary burden on shipowners and unnecessary cost to shippers and consumers, particularly if shipowners are required to report on measures taken by shore facilities over which they have no control. We also have some concerns about the definitions of some of the cargo types and terms used in the proposed rulemaking.

Thank you for the opportunity to present our views on this important subject.

Sincerely,

Don Morrison
President

PUBLIC SUBMISSION

As of: July 23, 2008 Tracking No. 8068d64b Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0107](#)

United States Department of Interior - The National Park Service

Submitter Information

Address:

NE,

Organization: United States Department of Interior - The National Park Service

Government Agency Type: Federal

Government Agency: NPS

General Comment

Please see attached letter.

Attachments

[USCG-2004-19621-0107.1](#) United States Department of Interior - The National Park Service



United States Department of the Interior

National Park Service

Midwest Region
601 Riverfront Drive
Omaha Nebraska 68102-4226



July 22, 2008

L7919(MWR-NRSS)

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor, Room W12 140
1200 New Jersey Avenue, SE.
Washington, D.C. 20590-0001

To Whom It May Concern:

The National Park Service appreciates the opportunity to provide feedback and respectfully submits the following comments on the Draft EIS *U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes*.

058a

While we understand the importance of movement of commodities on the Great Lakes via shipping, we also believe the largest freshwater resource in the world should have the most protective standards possible. Continual disposal of residues from coal, taconite, limestone and several other dry cargo residues (DCR) directly into the waters of the Great Lakes is contrary to this and we believe protective standards should be greater than proposed in the current subject DEIS.

The DEIS states that “Washdowns of deck and tunnel areas, resulting in sweeping of DCR into the Great Lakes, has been a standard practice for more than 75 years, with DCR sweepings occurring on the Great Lakes for as long as shipping has been present (USCG, 2006).” We believe that past practices that compromise the environmental quality of our aquatic resources do not justify future regulations that maintain the status quo. We therefore feel the final EIS should better address and pursue methods to reduce the amount of DCR to as close to zero as possible.

058b

Additionally, the proposed action would apparently create Federal regulation that is inconsistent with the laws of at least one state in the Great Lakes area (see comments from Michigan Dept. of Environmental Quality, Appendix C of subject DEIS, dated 12/1/2006). The NPS proposes that the USCG work more closely with the Great Lakes States to assure that the proposed action will not encourage activities that violate the laws of these states.

058c

Alternative 3, which proposes modified exclusion areas, specifically identifies Isle Royale National Park as an area where limestone and clean stone may be swept under the current IEP. We support, and at a minimum recommend, implementation of the proposed modifications under Alternative 3

058d

which would prohibit all sweeping within the 4.5-mile boundary of Isle Royale National Park and would thus provide greater protection of aquatic resources. In fact, the NPS received a letter from the USCG dated May 23, 2008, that specifically mentions Isle Royale as an area where limestone and clean stone can be swept, and it identifies other sensitive locations in the Great Lakes where sweepings have historically occurred. This letter goes on to say that “The DEIS indicates that DCR discharges have a minor environmental impact in these special areas, *which could be mitigated by prohibiting discharges.*” (emphasis added). Isle Royale supports populations of lake trout that are some of the most productive in the entire Great Lakes. Any potential impact to spawning reefs that may occur from sweeping of limestone or other stone should be prohibited. Additionally, according to Michigan law, all sweeping would be prohibited in Michigan waters which would by default include all of Isle Royale waters. We also strongly encourage the USCG to specifically list all six NPS units along the shores of Lakes Superior and Michigan as areas to be excluded from all sweepings. Those NPS units include Indiana Dunes and Sleeping Bear Dunes National Lakeshores on Lake Michigan; Pictured Rocks National Lakeshore, Apostle Islands National Lakeshore, Isle Royale National Park, and Grand Portage National Monument on Lake Superior.

058e

In addition to the above general comments, the following comments specifically identify components of the DEIS that we feel provide support for alternatives other than the preferred alternative suggested by the USCG.

COST ESTIMATES

- 058f
▪ The estimates for delay costs associated with Exclusion Area Modifications (appendix F, attachment 3) appear to be greatly oversimplified leading to possible gross overestimates of cost. The DEIS estimates additional costs to Great Lakes shipping totaling \$411,400 based on the assumption that ships normally traveling along shore would have to travel 2.5 miles out and 2.5 miles back to the line of travel to comply with a regulation requiring ships to sweep no closer than 3 miles from shore (assuming ships would already be ½ mile offshore). Rather than traveling straight out and back 3 miles, to maximize efficiency, a ship would need only travel to the 3 mile point, sweep residual cargo, then travel directly to the next port rather than come back in 2.5 miles then travel to the next port. Triangulation as described here, rather than linear travel would eliminate backtracking and reduce mileage and time of travel. For example a ship traveling between ports that are 250 miles apart but on the same shore would only add 0.01 mile to the additional 2.5 miles out, for a trip total of 252.01 miles, as opposed to 255 miles estimated with your method. A 30 mile distance between ports would result in only a 2.51 mile increase. It appears that your cost estimates could be reduced by approximately 50 percent, for a total cost of \$206,000, as opposed to \$411, 400. This type of oversimplification, which greatly overestimates costs, causes concern over the validity and accuracy of all other cost estimates in the DEIS.
- 058g
▪ Table 3 of Appendix F also shows several control methods that could be implemented both on ships and at shoreside facilities at apparently very low cost. For example, tarps that collect spilled cargo would cost only \$7,000 total for capital and O&M expenses. Broom and shovel cleanup costs would be \$1,200/year and comments in Table 3 indicate that delay costs for sweeping during travel or while loading could be negligible. Costs for enclosing or placing skirts on conveyors even appear to be relatively low, especially when compared to savings that could occur due to increased efficiency of loading and reduced waste of commodities.

BIOLOGICAL EVALUATIONS

058h

- In section 4.6.3.1, Benthic Community Impacts of Alternative 2, the DEIS states that the sweeping of DCR could change the physical structure of sediment which could produce a corresponding alteration in the benthic habitat and community in limited areas of intense DCR sweeping and accumulation. This section also references another study (Maher, 1999), described in Appendix N, in which differences in benthic community were observed in Lake Ontario in DCR sweeping areas compared to reference areas, possibly as a result of alteration in the physical structure of the sediment. Any potential changes in sediment structure should be of concern to the USCG.

058i

- We are also concerned by results of assays conducted with species of fish and invertebrates as reported in Appendix S “USCG Dry Cargo Sweeping Scientific Investigation: Sweepings Characterization – Toxicological Analysis.” Review of the summary on page 3 of Appendix S quickly indicates effects on growth and survival of some test organisms. A review of toxicity test results indicates significant impacts of sweepings were observed in the growth and/or survival of the test organisms *Chironomous dilutus* and *Hyallela azteca*. Test results also show a significant effect on *Daphnia* species and *Promephales pimaes* in at least some of the sample tests.

058j

These concerns over biological impacts, combined with other areas of concern mentioned above, lead us to believe that continuation of current sweeping methods and implementation of the preferred alternative would be deleterious and inappropriate, particularly in nationally significant waters such as those found in the National Parks, Lakeshores, and Monuments of the Great Lakes region.

058k

Finally, it is our opinion that a final EIS that combines components of Alternatives 3, 4, and 5 would be more protective of both the National Park Service waters and the Great Lakes as a whole and request that the USCG consider reevaluating the benefits that combining these alternatives would provide. Combination of these alternatives could provide greater protection of sensitive areas by modifying exclusion areas (Alt. 3) and could implement vessel control measures (Alt. 4) and shoreside control measures (Alt. 5) that would ultimately provide the protections we believe are appropriate for the world’s largest freshwater resource. Though there would be monetary costs to implement components of Alternatives 4 and 5, ship and shoreside control measures could be phased in over a reasonable amount of time such that this would not cause significant economic impacts to shipping or shoreside facilities. This would increase efficiency of commodity transfer to and from vessels, reduce the amount of wasted products, and help reduce the often overlooked costs of environmental impacts.

/s/ Gary Vequist
Associate Regional Director
Natural Resources Stewardship and Science

PUBLIC SUBMISSION

<p>As of: July 23, 2008 Tracking No. 8068d688 Comments Due: December 27, 2004 Late comments are accepted</p>

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0002](#)

U.S. DHS/USCG - Advanced Notice of Proposed Rulemaking; Request for Information

Document: [USCG-2004-19621-0108](#)

Key Lakes, Inc.

Submitter Information

Name: Captain William C Peterson

Organization: Key Lakes, Inc.

General Comment

Please see the attachments

Attachments

[USCG-2004-19621-0108](#) Key Lakes, Inc.

Via Fax: (202) 493-2251

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
Attention: Docket ID No. USCG-2004-19621

DEPT. OF TRANSPORTATION
DOCKETS

2008 JUL 22 P 2:54

Dear Sir or Madam:

**U.S. COAST GUARD DOCKET (USCG 2004-19621)
DRY CARGO RESIDUE DISCHARGE IN THE GREAT LAKES
NOTICE OF PROPOSED RULEMAKING
AND AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT
FEDERAL REGISTER, VOL. 73, NO. 101, MAY 23, 2008, PAGES 30014-30029**

Key Lakes, Inc. manages and operates eight Great Lakes Lakers (Great Lakes Fleet), serving ports on the four upper Great Lakes.

Efficient movement of dry-bulk cargo is extremely important to Key Lakes, Inc (Great Lakes Fleet). Each year we ship 11 million tons of taconite, 2 million tons of coal and 4 million tons of limestone.

We also respect the environment and always endeavor to meet our obligation to keep the Great Lakes clean and healthy.

We are writing to endorse continuation of the policy that allows the washdown of non-hazardous, non-toxic dry-cargo residue on the Great Lakes. Extensive studies have shown that the practice (which in some instances has gone on for well over a century) has no significant environmental impacts. In fact, the Draft Environmental Impact Statement (DEIS) finds the effects of dry-cargo residue washdown "barely detectable."

The amount of dry-cargo residue washed down is minute. Again, according to the DEIS, the residue is equal to 0.0006 percent of cargo moved on the Lakes. Continued washdown of dry-cargo residue will have no adverse impacts on the Great Lakes, but will allow U.S.- and Canadian-Flag "Lakers" to operate as efficiently as possible.

The proposed rulemaking does slightly expand the areas where washdown is prohibited. While the DEIS again found that washdown in these areas would not have major environmental consequences, we support these additional measures.

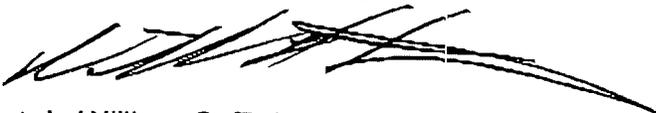
059a

The proposed rulemaking would make mandatory the recordkeeping currently done by vessel operators on a voluntary basis. We understand the purpose here is to facilitate further study. This strikes us as unnecessary given that 10-plus years of studies have concluded the practice does not harm the environment and the fact that cargo residue washdown has taken place for so long. Further study is merited only if a new dry-bulk cargo trade materializes.

Finally, the proposed rulemaking theorizes about possible measures if a Zero Discharge Policy was enacted. It suggests washdown water could be pumped to a treatment facility at the loading or discharge dock. This would be a considerable expense, and again, unnecessary given the benign nature of the practice. We also must note some of our facilities are in remote locations, so it would not be easy to build and operate such treatment systems.

Again, we endorse the proposed rulemaking's finding that dry-cargo residue washdown can continue on the Great Lakes. No harm will come to the environment, but Great Lakes shipping will remain the most cost-effective way to move large quantities of dry-bulk cargos.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read 'W. C. Peterson', with a long, sweeping underline that extends to the right.

Captain William C. Peterson
General Manager, Key Lakes Inc.

PUBLIC SUBMISSION

As of: July 23, 2008 Tracking No. 8068dcf6 Comments Due: July 22, 2008 Late comments are accepted

Docket: [USCG-2004-19621](#)

Dry Cargo Residue Discharges in the Great Lakes (See Attached) USCG-2003-16814

Comment On: [USCG-2004-19621-0033](#)

NPRM - Dry Cargo Residue Discharges in the Great Lakes

Document: [USCG-2004-19621-0109](#)

Alliance for The Great Lakes

Submitter Information

Name: Lyman C Welch

Address:

17 N. State Street

Suite 1390

Chicago, IL, 60602

Organization: Alliance for The Great Lakes

General Comment

Alliance for the Great Lakes, Great Lakes United, Lake Ontario Waterkeeper, and the National Wildlife Federation, in consultation with the Conservation Law Center, Inc., respectfully submit these comments in response to the Draft Environmental Impact Statement: U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes and Notice of Proposed Rulemaking, USCG-2004-19621. A shared priority of our four groups is to ensure that commercial navigation practices in the Great Lakes and St. Lawrence River do not have a deleterious impact on the basin freshwater ecosystem and dependant communities and economies.

Attachments

[USCG-2004-19621-0109.1](#) Alliance for The Great Lakes

United States Coast Guard
Docket Management Facility (M-30)
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590-0001

RE: Docket Number USCG-2004-19621
Public Comments on Notice of Proposed Rulemaking and Draft EIS

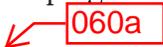
July 22, 2008

Dear United States Coast Guard:

Alliance for the Great Lakes, Great Lakes United, Lake Ontario Waterkeeper, and the National Wildlife Federation, in consultation with the Conservation Law Center, Inc., respectfully submit these comments in response to the Draft Environmental Impact Statement: U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes and Notice of Proposed Rulemaking, USCG-2004-19621 (“Draft EIS”). A shared priority of our four groups is to ensure that commercial navigation practices in the Great Lakes and St. Lawrence River do not have a deleterious impact on the basin freshwater ecosystem and dependant communities and economies.

Over twenty years ago the United States Coast Guard (“USCG”) proposed regulations to implement Annex V of the “International Convention for the Prevention of Pollution from Ships” which set international criteria for garbage dumping as being permitted only in the ocean, at least 12 nautical miles offshore. The enabling U.S. legislation, the Act to Prevent Pollution from Ships, effectively prohibited dry cargo sweeping in the inland Great Lakes. The USCG and Great Lakes carriers negotiated an Interim Enforcement Policy (“IEP”) in 1993 designed to allow carriers to continue sweeping dry cargo, with restrictions, in the Great Lakes.

In “A Study of Incidental Dry Cargo Residue Discharges in the Great Lakes”, the USCG estimates that approximately 653,000 lbs of iron ore, 228,000 lbs of limestone and 219,000 lbs of coal were discharged in the Great Lakes during the 2004-2005 shipping season by U.S. flag vessels alone.¹ The study also states that the practice of dry cargo sweeping has occurred for at least 75 years.²

 060a
Our groups oppose the Coast Guard’s proposed rulemaking that allows the discharge of bulk dry cargo residues in the Great Lakes, St. Lawrence River basin, and all inland navigable waterways. Our position and combined comments, detailed below, are based

¹ Study of Incidental Dry Cargo Residue Discharges in the Great Lakes, USCG-2004-19621, www.regulations.gov (2004), (enter USCG-2004-19621-0011 as search term).

² Id.

on the principles that: 1) under international and domestic law, the dumping of garbage in any of the internal waterways of the United States is prohibited; 2) dry cargo residue is “garbage” as defined in domestic and international law and is thus prohibited in the Great Lakes; and 3) the environmental impacts in the draft Environmental Impact Study are not adequately studied. Therefore, we recommend that the Coast Guard allow the current Interim Enforcement Policy to expire and enforce against future cargo dumping to protect the Great Lakes-St. Lawrence River ecosystem.

1) MARPOL DIRECTLY APPLIES TO THE NAVIGABLE WATERS OF THE UNITED STATES.

The International Convention for the Prevention of Pollution from Ships (MARPOL) is the primary international treaty covering the discharge of pollutants into the ocean. MARPOL combines two treaties, the 1973 International Convention for the Prevention of Pollutants from Ships, and the 1978 MARPOL Protocol. Currently, one hundred thirty-six countries are members of the convention, including the United States.

Congress passed the Act to Prevent Pollution from Ships (APPS) in 1987. In APPS Congress expressly placed the navigable waters of the United States under the protection of Annex V of MARPOL.³ Congress specifically made all ships operating in United States navigable waters subject to MARPOL protection.⁴ With this action Congress clearly placed the navigable waters of the United States under the protection of Annex V of MARPOL.

2) CARGO SWEEPING IS “GARBAGE” UNDER MARPOL, APPS, AND THE GREAT LAKES WATER QUALITY AGREEMENT.

Cargo sweeping falls under the definitions of garbage in MARPOL, APPS, and the Great Lakes Water Quality Agreement (GLWQA). The Coast Guard defines cargo sweeping as the “incidental discharge of *cargo residues*...from commercial dry cargo carriers.”⁵ Cargo residue is defined as “operational waste,” according to the Federal regulations implementing MARPOL.⁶ “Operational waste” is “garbage,” under APPS and MARPOL.⁷ The GLWQA, a bi-national agreement between the United States and Canada, similarly defines “garbage” as “all kinds of victual, domestic, and operational

³ 33 U.S.C.A. § 1901(b) (1996) (“For purposes of this chapter, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.”).

⁴ 33 U.S.C.A. § 1902(a)(3) (1998).

⁵ Coast Guard Interim Enforcement Policy of 1997 (“IEP”), USCG-2004-19621, www.regulations.gov (2004), (enter USCG-2004-19621-0036 as search term) (emphasis added).

⁶ 33 C.F.R. § 151.05 (2006) (defining “operational wastes” as “all cargo-associated waste, maintenance waste, and cargo residues.”).

⁷ 33 U.S.C.A. § 1901(a)(5) (1996).

wastes, excluding fresh fish and parts thereof generated during the normal operation of the ship and liable to be disposed of continually or periodically.”⁸

060e

3) CARGO SWEEPING IS ILLEGAL UNDER MARPOL, APPS, AND GLWQA.

When Congress applied MARPOL to the navigable waterways of the United States, Congress effectively banned all garbage disposal from vessels to the internal waters of our country. In APPS § 1901(b), Congress stated, “the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.”⁹ MARPOL specifically mandates that “The disposal into the sea shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than: 12 nautical miles for food wastes and all other garbage.”¹⁰ Annex V defines “nearest land” as “the baseline from which the territorial sea of the territory in question is established in accordance with international law.”¹¹ In other words, garbage is prohibited from being dumped within 12 miles of the *external* shoreline.¹² The USCG has already conceded that this practice is illegal under APPS, stating, “a strict interpretation of APPS would prohibit the sweeping of DCR [dry cargo residue] anywhere within the Great Lakes.”¹³

The GLWQA also prohibits cargo sweeping in the Great Lakes. The GLWQA borrows the definition of “garbage” word-for-word from MARPOL, which includes operational waste. The Coast Guard defined “operational waste” in their Federal Regulations to include all cargo residues.¹⁴ Thus, cargo-sweeping falls under the definition of garbage as found in GLWQA. Annex V of the GLWQA expressly makes garbage dumping illegal.¹⁵

⁸ Great Lakes Water Quality Agreement (“GLWQA”), available at <http://www.ijc.org/rel/agree/quality.html>, (Annex V, § 1(b)).

⁹ 33 U.S.C.A. § 1901(b) (1996).

¹⁰ International Convention for the Prevention of Pollution from Ships of 1973 (“MARPOL”), available at <http://sedac.ciesin.org/entri/texts/pollution.from.ships.1973.html>. (Annex V, Regulation 3(1)(b)(ii)).

¹¹ *Id.* at Annex V, Regulation 1(2).

¹² See K. Russell Lamotte & Richard S. Davis, Cargo Sweeping In The Great Lakes: A Coherent Regulatory Framework?, 21-Fall Nat. Resources & Env’t 56 (2006) (arguing that since MARPOL only allows dumping beyond 12 nautical miles of the boundaries of the United States, the internal waterways are protected for any garbage dumping under MARPOL).

¹³ U.S. Coast Guard Draft Environmental Impact Statement for Dry Cargo Residue Discharges in the Great Lakes (“Draft EIS”), USCG-2004-19621, lines 537-538, www.regulations.gov, (2004) (enter USCG-2004-19621-0032 as search term).

¹⁴ 33 C.F.R. § 151.05 (2006).

¹⁵ GLWQA *supra* note 8, at Annex V, § 2(a), (“The discharge of garbage shall be prohibited and made subject to appropriate penalties.”).

Under Annex V of MARPOL, as implemented by Congress through APPS, and the binational GLWQA, cargo sweeping is prohibited in all inland waterways of the United States, including clearly those waters of the Great Lakes and St. Lawrence River Basin.¹⁶

↙ 060e

4) CONGRESS HAS NOT AUTHORIZED THE COAST GUARD TO IGNORE INTERNATIONAL LAW.

There is a “firm and obviously sound canon of construction against finding implicit repeal of a treaty in ambiguous congressional action.”¹⁷ It has long been held that “[a] treaty will not be deemed to have been abrogated or modified by a later statute unless such purpose on the part of Congress has been clearly expressed.”¹⁸ A Congressional act will become the controlling law only “if the purpose of the act to supersede the earlier rule or provision is clear or if the act and the earlier rule or provision cannot be fairly reconciled.”¹⁹

This standard sets out two elements, either of which must be shown before Congressional actions can supersede an existing international treaty or agreement. The first is that Congress clearly states in the implementing regulation their intent to step away from the international agreement; the second, that the domestic law and international treaty cannot be reconciled with one another. Here, neither element has been shown to justify ignoring the MARPOL treaty obligations as enacted by APPS.

a) Congress did not clearly state an intention to ignore MARPOL regulations, as enacted by APPS.

When Congress extended the Coast Guard’s IEP in 2004, it did not clearly state that the IEP, or the required Environmental Impact Statement, supersede any existing international agreement or the domestic law that implemented it. Congress simply stated, “The Secretary of the Department in which the Coast Guard is operating shall continue to implement and enforce United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes.”²⁰ The restatement and the Supreme Court rulings mandate that Congress must affirmatively state that they intend that the piece of legislation they are enacting is to take the place of an already existing international treaty. Congress used no such language in their extension of the Coast Guard’s IEP, nor is the Convention or

¹⁶ Section 36(1)(a) of the Canadian Fisheries Act, R.S., 1985, c. F-14, (available online at: <http://laws.justice.gc.ca/en/showtdm/cs/F-14>) also prohibits cargo residue discharge.

¹⁷ *Trans World Airlines, Inc. v. Franklin Mint Corp.*, 466 U.S. 243, 252 (1984).

¹⁸ *Id.* quoting *Cook v. United States*, 288 U.S. 102, 120 (1933).

¹⁹ Restatement (Third) Foreign Relations Law of the United States, § 115 (1987).

²⁰ Coast Guard and Maritime Transportation Act of 2004, § 623(a), Pub. L. No. 108-293, 118 Stat. 1028 (2004).

Annex V mentioned in the legislative history of the 2004 law. Therefore, Congress did not override MARPOL.

060f

b) The Congressional action is not irreconcilable with the international treaty.

Under United States law, when an act of Congress and an international treaty are directed towards the same topic, the act of Congress must be interpreted so the international treaty can be complied with.²¹

In this case, Congress's action can be reconciled with the language of the treaty. The Coast Guard is proposing regulations under the authority granted it by the 2004 law. This law does not state that dry cargo residue discharge shall or must be allowed in the Coast Guard's regulations. For purposes of the proposed regulations, all Congress has told the Coast Guard is that they may promulgate rules. Even the "notwithstanding any other law" language does not prevent giving effect to both MARPOL and the 2004 law.

There are options available for these vessels to comply with MARPOL and APPS. One option is that the cleaning of the holding tanks and the cargo residues could be done while in port and the dry cargo residue could be exported into a processing facility where the cargo residue is reloaded onto a vessel or properly disposed of. The Draft EIS acknowledges that there are many Great Lake ports that have the existing infrastructure to process and dispose of cargo residue.²² A standardization of similar technology is achievable, due to the fact that several ports already have the existing ability to handle cargo residue.

060g

5) THE COAST GUARD'S PROPOSED RULE CONFLICTS WITH A FEDERAL STATUTE AND A TREATY AND THEREFORE, IF PROMULGATED, WOULD NOT BE VALID.

As discussed above, a regulation that allows dry cargo residue discharges would directly conflict with a federal statute, APPS. In such cases, "a regulation to the extent it is in direct variance with an unambiguous statutory provision is void."²³ Additionally, a regulation in conflict with a treaty, which is the law of the land, would also be void.²⁴ The

²¹ Murray v. Charming Betsy, 6 U.S. 64, 118 (1804) (Holding that "An act of Congress ought never to be construed to violate the law of nations if any other possible construction remains."); See also Whitney v. Robertson, 124 U.S. 190, 194 (1888) ("When the two relate to the same subject, the courts will endeavor to construe them so as to give effect to both, if that can be done without violating the language of either.").

²² EIS *supra* note 13, at lines 1355-1359.

²³ Diersen v. Chicago Car Exchange, 110 F.3d 481, 486 (C.A. 7 1997)(citations omitted), *cert. denied*, 522 U.S. 868 (1997).

²⁴ Shizuko Kumanomido v. Nagle, 40 F.2d 42, 44 (C.A.9 1930).

Coast Guard's regulation should be consistent with, not conflict with, APPS and MARPOL.

← 060h

6) THE DRAFT EIS MUST EVALUATE ALL REASONABLE ALTERNATIVES, NOT ALL FEASIBLE ALTERNATIVES.

The Draft EIS states that the criteria used to determine what alternatives to consider was one of feasibility. National law, however, dictates that the alternatives that must be considered under NEPA are alternatives that are reasonable in scope and not limited to just those that the agency themselves can adopt.²⁵ The Coast Guard has improperly limited the alternatives that are discussed to only those considered feasible, not those alternatives that are reasonable.

For example, the proposed rules would allow limited dry cargo residue in sensitive areas like Isle Royale and the Detroit River. Dumping should be prohibited in all environmentally sensitive areas in the Great Lakes. The Draft EIS should have considered expanding the prohibited discharge areas from those currently proposed.

7) THE DRAFT ENVIRONMENTAL IMPACT STATEMENT INADEQUATELY EXAMINES SEVERAL ENVIRONMENTAL CONCERNS.

← 060i

a) The physical characteristics of the lake bottom will be adversely affected by continued dumping.

The Draft EIS states that the physical structure of the sediments found at the bottom of the Great Lakes have suffered a “minor indirect adverse effect” due to historic dry cargo sweeping.²⁶ This is a significant understatement of the effect that cargo sweeping has on the physical characteristics of the sediment at the bottom of the Great Lakes. The USCG provided just a one year snapshot of hundreds of thousands of pounds of iron ore, limestone, and coal discharged into the Great Lakes during the 2004-2005 shipping season by U.S. flag vessels.²⁷ The fact is that cargo sweeping is a practice that has been in place for over 70 years. Given the sheer volume of cargo that has been dumped over this time frame and the likelihood that such sweepings would be concentrated in ports and shipping lanes, it is presumptuous to state that bottomlands in these areas suffered only “minor, indirect adverse effects” without conclusive evidence to demonstrate such a statement. Such a study of effects may entail, for example, the examination of native species biomass or biodiversity in an area of active cargo dumping compared with the

²⁵ Natural Resources Defense Council v. Morton, 458 F.2d 827, 834 (D.C. Cir. 1972) (stating “While we agree with so much of the Government's presentation as rests on the assumption that the alternatives required for discussion are those reasonably available, we do not agree that this requires a limitation to measures the agency or official can adopt.”).

²⁶ EIS *supra* note 13, at line 90.

²⁷ Id. at line 752 (Table 1-4).

biomass or biodiversity in an area where cargo dumping is absent, other factors comparable.

060j

Furthermore, in the Draft EIS, the Coast Guard admits that even a slight change in the sediment structure could cause a shift in the native species that inhabit the sediment, and could cause a minor increase in invasive mussel habitat in Lakes Michigan and Huron.²⁸ This conclusion ignores the possible effects that cargo sweeping has had and may continue to have on the benthic community, again without direct examination of possible community changes.

According to a 1999 study by the National Oceanic and Atmospheric Administration (NOAA), the continued build up materials such as iron ore, millscale, and slag in the sediment can have chronic effects on both hard and soft bottom habitats.²⁹ According to that study, “if these materials are of sufficient particle size to sink rapidly, they could represent a significant threat to hard spawning and habitat substrates through acute suffocation and long-term habitat degradation.”³⁰ Cargo sweeping has been a long-term practice, spanning over 70 years. Continued use of this method of disposal for dry cargo residue will only continue to compound the damage that may have been done by previous years of dumping.

060k

b) Continued cargo sweeping could lead to a build-up of toxic metals in heavily deposited areas of the Great Lakes.

According to the Draft EIS, the three most commonly shipped dry cargos are taconite (iron ore), coal, and limestone.³¹ In the 2004-2005 shipping season, vessels dumped a combined amount of approximately 550 tons of residue into the Great Lakes. The 1999 NOAA Study states that “iron ores, millscale, and slag all have or may have associated trace amounts of non-ferrous metals, some of which can be quite toxic; coal may have associated trace metals and polycyclic aromatic hydrocarbons have been known to leach from soft coals; therefore, any significant build-up of these materials in bottom sediments may pose a contaminant risk.”³² The NOAA Study concludes that the greatest environmental risks associated with cargo sweeping are these insoluble materials that may contain toxic elements. If this practice is continued, the continued dumping could have “the potential for long-term accumulation in bottom sediments, and if repeatedly deposited on hard-substrate habitats or spawning reefs, could change the physical character of these habitats and degrade their habitat value.”³³

²⁸ Id. at lines 94-97.

²⁹ The Environmental Implications of Cargo Sweeping in the Great Lakes (Hereinafter “NOAA Study”), National Oceanic and Atmospheric Administration, September 1999, pg. 48, available at <http://www.glerl.noaa.gov/pubs/techrept.html>, (TM-114).

³⁰ Id.

³¹ EIS *supra* note 13.

³² NOAA Study *supra* note 26.

³³ Id. at 51.

The NOAA Study also recommended that “For materials that are known to have a high potential for associated toxic components (iron ore, coal, coke, millscale, and slag) the Coast Guard should rigorously pursue obtaining as much information from the carrier organizations as possible concerning the actual composition, including trace constituents, of these commodities.”³⁴ The Coast Guard did not take this into advisement when drafting their EIS.

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8) THE DRAFT EIS IS FOCUSED ON THE WRONG ASPECTS OF CARGO SWEEPING.

The Coast Guard’s Draft EIS focuses on several alternatives for the regulation of cargo sweeping in the Great Lakes. For each alternative, the EIS assesses the environmental consequences of those actions. The Coast Guard determines the environmental consequences by “comparing the elements of each alternative to the existing conditions found in the lakes.”³⁵ This suggests the Coast Guard is focused entirely on the proposed alternatives and their environmental consequences. The 1999 NOAA study additionally suggests that there are several areas where there is a distinct lack of information as to the impact that the actual cargo residues have on the environment. It is imperative that the full environmental impact of cargo sweeping be determined before a decision on whether it should be allowed is made. The focus of the Draft EIS, therefore, should be assessing the impact of these sweepings on water quality, the ecological habitats that they come to rest in, and whether this practice is environmentally sound, rather than which alternative would best regulate cargo sweeping.

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9) CONFLICT BETWEEN PUBLIC TRUST AND PROPOSED FEDERAL REGULATIONS

The bottomlands of the Great Lakes are not under federal ownership, they are held in trust by the states for use and enjoyment by its citizens. Each state has a responsibility to the public to manage the bottomlands and waters to prevent pollution, protect natural resources, and maintain the public’s rights to use the resource. It appears that USCG has assumed full responsibility for the development of regulations that result in the direct dumping of bulk materials into state waters and onto state bottomlands. We strongly recommend immediate formal consultation with the states to explore this conflict between federal regulation and state authority.

In conclusion, the cumulative impacts from a wide suite of stressors have taken the Great Lakes to what scientists are calling an “irreversible tipping point,” after which we may not be able restore the qualities and values citizens of the basin currently enjoy, and on which a fully functioning ecosystem depends. For many stressors, our federal laws are inadequate to protect the health of the Great Lakes and work is being done to address

³⁴ *Id.* at 52.

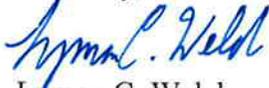
³⁵ EIS *supra* note 13, at lines 79-80.

these policy gaps. For the issue of dry cargo dumping in the Great Lakes, we have clear laws that are not being enforced.

We oppose the proposed Coast Guard rulemaking to codify the practice of discharging dry cargo residues into the Great Lakes, St. Lawrence River, and all inland navigable waterways. We strongly recommend the Coast Guard allow its interim enforcement policy to expire, develop more appropriate regulations, and bring dry cargo dumping to an end in the Great Lakes.

Please feel free to contact any of the following organizational contacts if you have questions or need any clarification.

Sincerely,



Lyman C. Welch
Manager, Water Quality Programs
Alliance for the Great Lakes
Phone: 312-939-0838 x230
Email: lwelch@greatlakes.org

Andrea Need
Staff Attorney
Conservation Law Center
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Email: aneed@indiana.edu

Jennifer Nalbone
Campaign Director, Navigation and Invasive Species
Great Lakes United
Phone: 716-213-0408
Email: jen@glu.org

Krystyn Tully
Vice President
Lake Ontario Waterkeeper
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Email: Krystyn@waterkeeper.ca

Michael Murray, Ph.D.
Staff Scientist
National Wildlife Federation
Phone: 734-887-7110
Email: murray@nwf.org

The Alliance for the Great Lakes is an organization that has existed in one form or another since 1970. The Alliance works to conserve and restore the world's largest freshwater resource through policy, education and local efforts aimed at preserving the Great Lakes region as a national treasure. It also works with the region's residents, enhancing their understanding of how they can help, too. The mission of the Alliance is one of conservancy and restoration of the world's largest fresh water resource and the preservation of clean water for generations to come.

The Conservation Law Center is a non-profit organization established as a Midwest-based advocate for natural resource conservation. The Clinic serves its clients using all of the tools and approaches that law firms use, but it accepts as clients only those whose issues involve advocacy (in the broadest sense of the word) for natural resources and who are non-profit or governmental organizations.

Great Lakes United is an international coalition of groups and individuals in the United States, Canada, First Nations and tribes dedicated to the protection and restoration of the Great Lakes-St. Lawrence River basin. A priority of the coalition is to ensure that commercial navigation practices in the Great Lakes and St. Lawrence River do not have a deleterious impact on the basin freshwater ecosystem and dependant communities and economies.

Lake Ontario Waterkeeper fulfills its mission by educating the public about Lake Ontario and the Great Lakes Basin and by conducting research and public education activities on behalf of the watershed. Our goal is to restore and protect Lake Ontario's natural resources, as well as contribute to its aesthetic, social recreational and economic values. We are a licensed member of the New York-based Waterkeeper Alliance, led by Robert F. Kennedy Jr.

National Wildlife Federation inspires Americans to protect wildlife for our children's future. We work with over 4 million members, partners, and supporters to actively educate, inspire, and promote achievable solutions to everyday Americans in communities from coast-to-coast.



EPAR5721

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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77 West Jackson Boulevard
Chicago, IL 60604

Office of Enforcement & Compliance Assurance
NEPA Implementation
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Fax Number: (312) 353-5374

To: Greg Kirkbride
Fax: 202-372-1926

From: Sherry Kamke

Phone: 312-353-5794

Fax: 312-353-5374

Date: July 21, 2008

Number of pages,
including this cover sheet: 4

Comments: Please see EPA's DEIS comment letter on Dry Cargo. Please see the second page where the substantive comments are. EPA rated the DEIS a "LO".

Please contact me with any questions that you might have. Thanks.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 21 2008

REPLY TO THE ATTENTION OF:

E-19J

Mr. Howard Hime
Chief, Office of Standards Evaluation and Development
U.S. Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593-0001

Re: Comments on the U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes Draft Environmental Impact Statement (DEIS), No. 20080203

Dear Mr. Hime:

061a
In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the United States Environmental Protection Agency (U.S. EPA) Region 5 has reviewed the U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes Draft Environmental Impact Statement (DEIS) and the associated Notice of Proposed Rulemaking dated May 28, 2008, referred to here as the Dry Cargo NPRM.

The DEIS provides an assessment of the potential environmental impacts associated with the proposed regulation of dry cargo residue (DCR) in the Great Lakes. DCR is the residual material left on deck when non-toxic or non-hazardous cargos such as limestone, iron ore or coal are loaded or unloaded onto ship decks or within ship loading tunnels. To avoid cross-contamination and address safety risks to crew members, Great Lakes shippers periodically wash the decks with water. Ships typically have conducted this wash-down of the decks while transiting between ports. The U.S. Coast Guard currently regulates DCR sweepings under an Interim Enforcement Policy (IEP) which will expire on September 30, 2008.

The U.S. EPA, as a cooperating agency, has assisted the Coast Guard with defining the purpose and need of the project, determining the range of alternatives, and scoping the environmental analysis documented in the DEIS.

The current IEP allows the discharge of DCR in specified areas of the Great Lakes. Discharges are allowed a set distance from shore depending on the DCR that is swept overboard. These distances were established in 1993 in consultation with affected federal and state resource agencies. The existing IEP includes provisions for voluntary recordkeeping. The preferred alternative would adopt the IEP as the Coast Guard rule for DCR with mandatory recordkeeping and reporting. The recordkeeping provision was

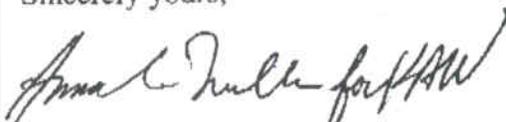
included to address insufficient data on control measures and costs to implement them. Other substantive additions to the IEP would be to encourage the use of shipboard and shoreside control measures, along with restrictions to prevent sweeping in protected and sensitive areas.

The DEIS concludes that minor adverse effects to the environment would occur with the implementation of the preferred alternative. We have no objections to that finding. Additionally, we concur with the approach used in the Dry Cargo NPRM which extends restrictions in 13 special areas, imposes new recordkeeping requirements on carriers, and encourages voluntary adoptions of control measures for reducing the accumulation and overboard disposition of DCR. We understand that the Coast Guard intends to simultaneously finalize the May 23, 2008 proposed rule and announce the opening of a new rulemaking to consider additional steps to reduce the environmental impact of continued DCR discharges. We agree that more research should be conducted to ascertain economic costs and benefits of various control measures. In the meantime, we agree that the Great Lakes carriers should be encouraged to use best management practices in order to minimize the amount of DCR discharged into the Great Lakes. The Great Lakes are a valuable resource, and we support measures to ensure the continued health of the largest surface freshwater system on Earth.

Based on our review of the information provided in the DEIS and May 23, 2008 NPRM, we have rated the DEIS as LO (Lack of Objections). We have enclosed a summary of U.S. EPA's rating system under NEPA.

Thank you for the opportunity to comment on the DEIS for this project. We look forward to ongoing work on this issue. If you have any questions, please contact me at (312) 886-2910. The staff person assigned to this project is Sherry Kamke; she can be reached at (312) 353-5794 or via email at kamke.sherry@epa.gov.

Sincerely yours,



Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

Enclosure - U.S. EPA's Summary of NEPA Rating Definitions and Follow-up Actions

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

L.O-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS site, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1-Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment



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JUL 21 2008

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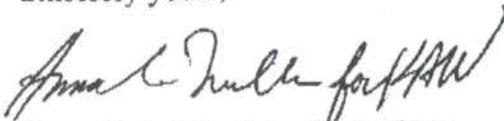
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Office of Enforcement and Compliance Assurance

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*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment



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ALBANY, NY 12231-0001

DAVID A. PATERSON
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

July 1, 2008

Howard Hime, Chief
Office of Standards
Evaluation and Development
United States Coast Guard
2100 Second Street, S.W.
Washington, DC 20593-0001

Re: F-2008-0423(DA)
United States Coast Guard
Dry Cargo Residue Discharges in the Great Lakes rule
Great Lakes Region

Negative Determination

Dear Chief Hime:

On June 20, 2008, the Department of State received the United States Coast Guard negative determination and supporting information for the above-referenced activity. Based on the information provided, the Department concurs with your determination that the Dry Cargo Residue Discharges in the Great Lakes rule will not result in any reasonably foreseeable effects to land and water uses or natural resources of the coastal area. Further review of this activity by the Department of State is not necessary.

Thank you for providing this information to the Department of State. If you have any questions regarding this matter, please contact us at (518) 474-6000 and refer to our file # F-2008-0423 (DA).

Sincerely,

Jeff Zappicci

Supervisor of Consistency Review and Analysis
Division of Coastal Resources

JZ/dc