



United States Environmental Protection Agency
Office of Water
Office of Wetlands, Oceans, and Watersheds
Oceans and Coastal Protection Division

July 12, 2010

Questions and Answers

***Federal Register* Notice Seeking Stakeholder Input on Petition and Other Request to Revise the Performance Standards for Marine Sanitation Devices (Clean Water Act § 312(b))**

1. What is the Clean Water Act section 312 vessel sewage program?

Clean Water Act (CWA) sections 312(a) – (m) provide the framework under which the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard regulate sewage discharges from vessels. Section 312(h) prohibits vessels equipped with installed toilet facilities from operating on U.S. navigable waters (which include the three mile territorial seas), unless the vessel is equipped with an operable marine sanitation device (MSD) (devices that treat vessel sewage) certified by the Coast Guard to meet applicable performance standards.

The provisions of CWA section 312 are implemented jointly by EPA and the Coast Guard. EPA sets MSD performance standards (EPA has established standards for fecal coliform and total suspended solids) and is involved in the establishment of no discharge zones for vessel sewage (areas in which both treated and untreated sewage discharges from vessels are prohibited). The Coast Guard is responsible for developing regulations governing the design, construction, certification, installation and operation of MSDs, consistent with EPA's standards (*See* 33 CFR Part 159). EPA finalized the performance standards for MSDs on January 29, 1976 (*See* 40 CFR Part 140).

2. Why is EPA publishing a *Federal Register* Notice?

EPA received a petition for rulemaking and another separate request for rulemaking (collectively, "rulemaking requests") asking the Agency to revise its regulations establishing performance standards for MSDs pursuant to the Agency's authority under section 312(b)(1) of the CWA. The rulemaking petition also requests that EPA establish monitoring, recordkeeping and reporting requirements under the CWA to ensure compliance with the performance standards.

EPA is publishing a *Federal Register* Notice to make the public aware of the issues raised in the rulemaking requests and to obtain the public's input, in the form of comment and relevant information, to help EPA determine appropriate action in response to the requests.

3. Is EPA revising the MSD performance standards?

EPA has not made a decision on whether to propose any changes to the MSD performance standards in light of the rulemaking requests. The *Federal Register* Notice does not contain, modify or establish any regulatory requirements, but simply seeks public input on what, if any, changes might be warranted and asks for technical input and factual information.

4. What type of technical input and factual information is the Agency seeking from the public?

EPA is seeking comments on the rulemaking requests, and is soliciting additional technical input and factual information that will be useful to the Agency as it considers how it might respond to these requests. In general, EPA is seeking the following types of technical input and factual information from the public:

1. What existing public or private data sources are available for use in identifying, categorizing, and describing the universe of vessels operating on U.S. navigable waters that also use sewage treatment devices?
2. What existing technical information is available on the performance, effectiveness and costs of various vessel sewage treatment devices, including performance testing data?
3. Are you aware of any existing information about other countries' domestic laws that establish standards or discharge limitations for vessel sewage?
4. Given existing international and Federal limitations and controls regulating discharges of sewage from vessels, and in light of the numerous CWA section 312 State-established NDZs, should EPA consider revisions to the performance standards for MSDs, and what should be the basis for such a decision?
5. What existing information is available on the current practices, protocols or regulatory approaches to testing, monitoring and/or reporting sewage discharges from vessels, and what, if any, are the practical limitations or burdens associated with these practices?

5. When must EPA receive comments in response to the *Federal Register* Notice?

Comments in response to this *Federal Register* Notice must be received on or before **November 9, 2010**. Please refer to the *Federal Register* Notice for additional information about submitting comments. The *Federal Register* Notice can be accessed online at www.regulations.gov, Docket ID No. EPA-HQ-OW-2010-0126, or visit EPA's website at: http://www.epa.gov/owow/oceans/regulatory/frnotice_marinesanitation.html.

For more information on the *Federal Register* Notice please contact:

Kathryn Benz, Oceans and Coastal Protection Division, (202) 564-1223, msdstandards-hq@epa.gov.

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