



State Ballast Water Programs: Legislation, Regulation, Litigation

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NISA

- National Invasive Species Act
 - Coast Guard authority
 - Ballast water management practices
 - Mandatory National Regulations
 - NOBOBs exempt
 - Coast Guard's notice of proposed rulemaking

Clean Water Act

- Clean Water Act
 - NPDES Permits
 - *Northwest Environmental Advocates v. EPA*
- Permit uses existing Coast Guard ballast water exchange requirements and St. Lawrence Seaway's NOBOB flushing requirement
 - Legal challenges to permit

State authority

- CWA Authority
- NISA
- Police Powers

Michigan

- Oceangoing vessels must obtain permit from MDEQ (401 certification)
- *FedNav, Ltd. v. Chester*
 - Federal District Court dismissed the case
 - On appeal, the Sixth Circuit upheld the permit
 - Federal Preemption
 - Commerce Clause
 - Due Process Clause

Minnesota

- State Disposal Permit (and 401 certification)
 - Best Management practices
 - Biological treatment standards (IMO)
- *MPCA v. MCEA*
 - MCEA claimed MPCA did not conduct an adequate non-degradation review
 - Court of appeals upheld the permit

New York

- 401 Certification
 - Existing vessels must meet standards 100x IMO by 2012
 - Vessels launched after Jan. 2013, 1000x IMO
- *Port of Oswego Authority v. Grannis*
 - Shipping industry challenged permit
 - Court upheld

Wisconsin

- Proposed draft ballast water permit has undergone public comment
 - DNR finalizing permit.
- Existing oceangoing vessels must meet standards 100x IMO by 2012
 - If the technology is not available, IMO standards would apply.
- Oceangoing vessels launched after Jan. 2013, 1000x IMO

Indiana

- 401 Certification
 - Existing ocean-going vessels must meet IMO performance standards by January 1, 2016
 - Ocean-going vessels launched after January 1, 2012 must meet IMO standards prior to operation

Ohio

- 401 Certification
 - Standards similar to Indiana
 - Lakers launched after Jan. 2016 must meet IMO

Illinois

- 401 certification
 - IMO standards

Pennsylvania

- 401 Certification
 - Existing ocean-going vessels and lakers must meet IMO performance standards by January 1, 2016
 - Ocean-going vessels and lakers launched after January 1, 2012 must meet more stringent standards (100x IMO)

Contact Information

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