

UNDS *tidings*

Uniform National Discharge Standards



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State Involvement in UNDS Development

When the FY 1996 National Defense Authorization Act was enacted, amending Section 312 of the Clean Water Act, the Department of Defense (DoD) and the Environmental Protection Agency (EPA) were authorized to jointly develop uniform national discharge standards (UNDS) for vessels of the Armed Forces. Recognizing the effect of such standards on state and local interests, Congress included provisions for EPA and DoD to consult with interested states during the UNDS rulemaking process.

The Navy, as lead for DoD, and EPA consider state involvement a valuable opportunity to facilitate information sharing and communication about state-related issues important to the successful development and implementation of UNDS. States have been involved in the UNDS process through two forums - the UNDS Executive Steering Committee and state consultation meetings.

UNDS Executive Steering Committee

The UNDS Executive Steering Committee is the senior decision-making committee for UNDS development. The Committee includes representatives from EPA, U.S. Coast Guard, Navy, National Oceanic and Atmospheric Administration, Department of State, and the Environmental Council of States (ECOS). ECOS is the national association of state environmental agencies. ECOS represents

state interests on environmental issues and fosters partnerships with federal agencies. As a member of the UNDS Executive Steering Committee, the ECOS representative provides state perspective on the development of UNDS.

State Consultation Meetings - Round I

In early 1996, the Navy and EPA invited states to meet to discuss UNDS. Between August and December 1996, the Navy, EPA, and Coast Guard completed a first round of consultation meetings with interested states. These visits served as an opportunity for states to learn about the scope of UNDS and procedures the Navy and EPA are using to categorize discharges as either requiring control by a marine pollution control device (MPCD) or not requiring control.

Each state briefing presented an overview of the UNDS development process and outreach activities. Specifically, each briefing focused on the legislative history of UNDS, the purpose of developing UNDS, management of the UNDS rulemaking process, criteria to consider in developing the UNDS regulations, and the UNDS technical approach for discharge assessment. Outreach efforts such as the UNDS *tidings* newsletter, the UNDS homepage, and state consultation briefings were also presented as effective channels for exchanging information and ideas, and generating discussion among stakeholders.

The meetings provided states with the opportunity to ask questions and express any concerns related to UNDS development. Two common concerns emerged from the meetings: UNDS impact on state regulatory authority and the technical approach for developing UNDS. The consultation meetings represented a major step towards a continuing dialogue among Navy, EPA, Coast Guard, and state participants throughout the UNDS development process.

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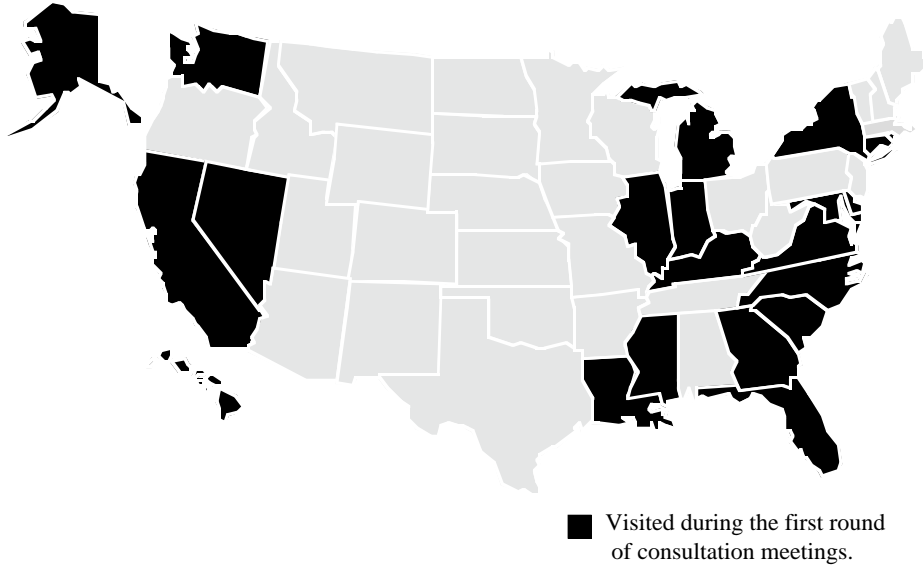
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A first round of state consultation meetings were conducted during the Fall of 1996. Twenty-one states were visited and briefed on UNDS.

Preemption of State Authority

Representatives from several states were interested in learning the extent to which the UNDS regulation will preclude state regulation of incidental discharges. The UNDS legislation requires that once final regulations are promulgated, UNDS will preempt state authority to regulate incidental discharges from vessels of the Armed Forces. Because of the importance of this preemption, the Navy and EPA have articulated their commitment to extensive consultation with states during the development of UNDS. They continue to work with interested states and are committed to providing states timely and accurate information supporting UNDS development.

The UNDS legislation also establishes that once final regulations are promulgated, states will continue to have the opportunity to provide input to the regulation of incidental discharges from Armed Forces vessels. UNDS regulations will be reviewed every five years, and state input will be sought during this review. In addition, as new information becomes available, a Governor may petition the EPA Administrator and Secretary of Defense to review the listed discharges requiring control. A state may also petition the EPA to establish a no-discharge zone prohibiting the release of one or more incidental discharges in that state's waters.

UNDS Technical Approach

States were interested in the technical approach for developing UNDS. Specifically, states wanted to learn more about the information gathered to characterize each discharge and information that would be considered in determining which discharges require control.

The UNDS legislation requires consideration of seven factors in developing UNDS: nature of the discharge, environmental effects of the discharge, practicability of using an MPCD, effect of an MPCD on the operation of a vessel, applicable U.S. law, applicable international standards, and costs of MPCD installation and use. The discharge assessments are based upon these factors and activities including a compilation and review of state water quality criteria and standards, and specific water quality data. In addition, the EPA and Navy conducted sampling of discharges for which there was insufficient sampling data or process knowledge.

The Keystone Dialogues

The consultation meetings represent the continuation of an ongoing outreach effort by Navy and EPA to support the development of UNDS. Prior to the passage of UNDS legislation, the Navy and EPA established contact with interested states, local governments, and regional and national

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environmental advocacy groups to discuss vessel pollution control.

In 1994, the Navy hosted a meeting on vessel pollution control technology and uniform standards. The meeting was facilitated by the Keystone Center and was attended by governmental and environmental group representatives. Participants discussed the Navy's proposed Clean Water Act amendment that would establish national discharge standards.

In 1995, the Navy hosted a follow-up meeting to continue the momentum towards establishing uniform national discharge standards. These meetings re-emphasized the Navy's intent to maintain an open dialogue with diverse stakeholders and share information on efforts to enhance shipboard pollution control.

State Consultation Visits - Round II

The Navy and EPA are preparing for a second round of state consultation meetings. The state representatives briefed during the first round of meetings will again be contacted.

The second round of meetings will focus on the specific procedures to assess and categorize discharges, preliminary discharge determinations and technical information supporting decisions to control or not control discharges.


Summary of State Participation in the UNDS Process - Major Phase I Efforts


Executive Steering Committee - State interests are represented in decision making through participation by the Environmental Council of States (ECOS)

UNDS Outreach /Consultation - States are briefed directly by EPA, Navy, and U.S. Coast Guard in two rounds of consultation meetings; UNDS ^{tidings}; UNDS homepage

Recent Progress

UNDS development activity is proceeding rapidly to meet an aggressive schedule. To date, the effort has initiated a variety of activities and reached several milestones:

 On October 15, representatives from the Navy, EPA, U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) met to discuss UNDS. During the meeting, the Navy provided an overview of the UNDS regulatory development process and invited FWS and NMFS to be involved in future UNDS related activities. This meeting marked the beginning of cooperative efforts among these organizations in UNDS development.

 State environmental agency representatives are currently being contacted to schedule the second round of state consultation meetings. If you are intrerested in learning more about UNDS state consultation, please contact Melissa French at (703) 917-2556.

UNDS Fast Fact

October 1997 marks the 25th anniversary of the Clean Water Act. Enacted in 1972 in response to public health concerns over water pollution, the Clean Water Act represented the first major comprehensive national clean water legislation. Today, the Clean Water Act is the primary federal law designed to restore and maintain the integrity of the nation's waters. The addition of the UNDS amendment to Section 312 enhances the Clean Water Act as a measure that will improve water quality by proactively preventing pollution incidental to the normal operation of vessels of the Armed Forces. With the UNDS amendment, the Clean Water Act continues to be a solid and comprehensive foundation for an effective national water program.

Frequently Asked Questions

The UNDS rulemaking is a dynamic process that has generated a great deal of interest and several questions. Here are the answers to frequently asked questions:

Q: Are coastal states the only states that will be affected by UNDS?

A: No, UNDS regulates all vessels of the Armed Forces. Therefore, all states in which the Armed Forces and U.S. Coast Guard operate will be affected by UNDS. For example, the Coast Guard patrols and maintains public safety along the waterways of a land-locked state such as Nevada.

Q: How many vessels of the Armed Forces will be subject to regulation by UNDS?

A: According to the most recent data, a total of 6,898 vessels will be affected by UNDS. Each service reported the following vessel figures: Army - 261, Navy - 4,516, Air Force - 67, Marine Corps - 538, Military Sealift Command - 70, and Coast Guard - 1,446.

Learn more about UNDS on-line.
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of UNDS *tidings*

Check out the new UNDS homepage:

<http://www.n4.hq.navy.mil/n45b/doc/unds/unds.html>

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