



Alaska Trollers Association

130 Seward #205

Juneau, AK 99801

(907)586-9400 phone

(907) 586-4473 fax

ata@gci.net

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Water Docket
U.S. Environmental Protection Agency
Mail Code 4101T
1200 Pennsylvania Ave NW
Washington, DC 20460

RE: Discharges Incidental to the Normal Operation of A Vessel Draft NPDES Permit
Docket No: EPA-HQ-OW-2011-0141 (VGP) and EPA-HQ-OW-2011-0150 (sVGP)
FR Vol. 76, No. 236 (Dec. 8, 2011)

To Whom it may concern:

The Alaska Trollers Association (ATA) **requests an extension of no less than 6 months** for the Environmental Protection Agency's (EPA) public comment period relative to both the Draft 2013 NPDES Vessel General Permit (VGP) and Draft Small Vessel General Permit (sVGP). Further, **ATA requests that EPA work with congress to exempt small boat commercial fishermen under the Clean Water Act (CWA) from these impractical and unnecessarily burdensome permits.** ATA is a member group of United Fishermen of Alaska (UFA) and we refer you to UFA and other industry comments relative to small boat fishing operations.

ATA represents the interests of over 2,000 commercial salmon troll permit holders who are licensed to fish with hook and line in both state and federal waters off the coast of Southeast Alaska. Trollers operate in the waters between Dixon Entrance on the south and Cape Suckling on the north. Over half of all troll permits are active each year, and mostly fished from July 1 to Sept. 30 when salmon are most abundant. Over 99% of the troll vessels fishing off Alaska are less than 60 feet and total crew size is typically 1-3 people.

The troll fleet is diverse and some of the larger vessel operators could be forced into both permits depending on the nature of their operation, but the vast majority are likely to fall under the sVGP.

The troll fleet is 87% Alaska resident and a large percentage of permit holders live in small, rural communities. The third largest town in Alaska – and biggest in our region - is Juneau with a population of less than 30,000. Many Alaska troll ports do not have sewers or the infrastructure and services to cope with such things as receiving used ice from fishing vessels. Even the larger towns would be hard pressed to provide such support.

While we can appreciate EPA wanting to get its system in place early to help smooth the transition to a new permitting program, it has simply not been possible to fully digest and analyze the impact of the proposed rules in the relatively short time-frame allowed. The comment period should be extended, at minimum. However, it is difficult to see why the previous exemption is not still appropriate for vessels like ours. Obviously the courts have dictated that such a provision would now take congressional authorization. Has EPA attempted to work with congress to secure the exemption that just three years ago the agency believed was appropriate?

While EPA itself notes that these permits are a 'significant regulatory action', it concludes that the sVGP will not significantly impact our members, because it does not exceed the 'cost-to-revenue' threshold. First, we question EPA's assumption regarding cost per vessel and also whether or not the gross revenue calculation is appropriate for small, unincorporated businesses. Second, even a cursory review of the draft permit suggests that the costs could, in fact, be substantial for small boat fishermen. At minimum, costs to comply with these regulations could include structural changes to vessels (if even possible); fishing time lost by individuals and small crews to fulfill such requirements as documentation and reporting; fishing time lost and expense incurred running great distances to communities large enough to provide services and accept discharges; and even disruption of basic daily operations (e.g. vessel sanitation, cooking, cleaning, and showering).

The Study

In the federal register notice, EPA references its study on commercial fishing vessel discharge. In April 2010, ATA provided comments on this study and specific, detailed information about conduct of the troll fishery. We noted our substantial concerns about failure of EPA's report to provide congress and the public a complete and accurate description of vessel discharges relative to a highly diverse industry, which spans a wide array of ocean and nearshore conditions from Maine to Alaska.

The troll fleet was one of the few that EPA sampled for its study and troll vessels made up 10% of those sampled, yet a number of mischaracterizations and assumptions about our fleet and its operation were embodied in the report. Further, on a national scale, total sample size – both number of vessels (61 total; 6 troll) and effluent samples (no more than 32 per pollutant) – was small, as EPA itself noted. This makes the study data tenuous and the staff conclusions speculative. The data and analysis do not adequately reflect the true conduct of our fishery, nor the nature of our vessel discharges, nor the areas where discharges occur. These same concerns extend to other vessels tested in Alaska and throughout the US.

The State of Alaska manages 68 fisheries under unique limited entry programs. Several other state-run open access fisheries and a variety of federal fisheries also occur in our waters. Roughly 20,000 people hold Alaska limited entry permits - 11,000 (77%) of them are residents of our state and half live in rural Alaskan communities. At the time of the study, those individuals fished a total of 9,645 vessels, which made up 14% of the 70,000 commercial fishing vessels subject to the EPA's study. 95% (9,146) of those vessels are less than 76 feet; 87% (8,393) are less than 50 feet.

One of the biggest problems with the EPA analysis is that one size does not fit all when you are talking about conduct between fisheries or even within a fishery. There is a wide array of vessels, engines, and configurations. Sampling just 61 vessels over nine regions nationwide, and claiming that the data are reflective of the entire US fishing fleet, is wholly inadequate.

We believe that a better understanding of how commercial fishing vessels operate now - fishery by fishery and region by region – and how they would be changed under the new permits, would help both EPA and congress see the potentially onerous and punitive nature of these regulations for small boat commercial fishermen. We do not believe that implementation of these permits will help the nation secure significant health protections for humans and wildlife, or improvements in water quality. This is particularly true in Alaska, where our fleets work large, mostly remote areas, in some of the coldest and most dynamic seas off the US coast.

Recreational Vessels

Under the Clean Boating Act of 2008, Congress exempted roughly 16 million recreational vessels from discharge requirements. We have seen no comparative data for that sector. It is a fact that many of those vessels are similar in structure and size to the vessels our industry represents. Many of those recreational vessels operate in the nearshore areas and in far greater concentrations than commercial fishing boats, particularly far roaming fleets like the Alaska troll fleet. This is not to suggest a problem with recreational vessels, but merely to point out that the nation's 70,000 fishing boats total less than 0.5% of the recreational craft already exempted, and

that many of our discharges occur in ports and offshore areas with a low concentration of vessels and a good tidal flush. Here in Alaska, where commercial fishing, processing, and recreational activity has taken place for more than 100 years, our waters are large, mostly unimpaired, and marine resources are healthy and abundant.

Unnecessary Cost to the Nation

Discharge regulations for our fleet would do nothing more than further burden state and federal agencies, thousands of small businesses, local communities, and American families.

Cost to the troll fleet, and other small vessel/business owners, stemming from increased regulation of vessel discharges under these permits is likely to be substantial. The rules seem impractical and cost prohibitive for both industry and the United States. In short, regulation of small boat commercial fishing discharges would be premature based on the data gathered thus far, and is likely to be unnecessary, as there would be no substantial gain realized. If these permits are put in place, EPA would be faced with the administrative, monitoring, enforcement and fiscal burdens of an additional 140,000 new permits nationally, at time when federal budgets are being significantly cut. Again, and importantly, we do not believe that the benefits from new regulations would outweigh the negative impacts to the fleet and nation.

We anticipate the nation would be better served if congress and the administration allowed EPA to focus on solving real problems that could lead to significant improvements in water quality. Simply focusing on the discharges of 70,000 small commercial fishing vessels would be off the mark, missing the point of regulating an activity to provide human and environmental benefit.

Through EPA's past exemption, we believe the agency agreed with that conclusion and it seems appropriate for EPA now to inform congress to that effect.

ATA is hopeful that EPA will ultimately work with Congress and affected stakeholders to reinstate the previous exemption for commercial fishing vessels under 79' and protect thousands of small business owners from unnecessary discharge regulations.

Should congress fail to act to exempt small boat commercial fishermen prior to the end of the current moratorium, we would urge another extension and ask that EPA engage industry stakeholders in a more thorough discussion about the nature of our operations and ways to achieve the goals and objectives of the CWA in a more reasonable manner.

Comment Period Too Short

As noted, the comment period was too short to adequately understand and comment on the two permits presented. We request an extension. Additionally, we object to the fact that no hearing was held in Alaska, despite the fact that nearly 15% of the affected vessels fish off our coastline. 'Webinars' are not yet user-friendly for most Alaskans.

If I can be of assistance and answer questions on this or other issues of concern to our industry, please do not hesitate to contact me at the number above.

Best regards,

Dale Kelley
Executive Director