



INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

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[Docket Number USCG-2001-10486]

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

Re: Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters
[RIN 1625-AA32]

To whom it may concern:

The International Association of Drilling Contractors is a trade association representing the interests of drilling contractors, onshore and offshore, operating worldwide. Our membership includes all drilling contractors currently operating mobile offshore drilling units (MODUs) in the areas subject to the jurisdiction of the United States, as well as all MODUs registered in the United States.

The purpose of this letter is to respond to the United States Coast Guard's 28 August 2009 Notice of Proposed Rulemaking (NPRM) (74 FR 44632), which proposes to amend its regulations on ballast water management and establish standards for the allowable concentration of living organisms in ballast water discharged into U.S. waters.

IADC recognizes the Coast Guard's concern to control the introduction and spread of nonindigenous species from ships discharging ballast in U.S. waters and we offer the following comments and recommendations for your consideration.

"U.S. Waters"

IADC believes that the Coast Guard needs to clarify a probable jurisdictional issue with regards to this term as it is used in the proposed rulemaking. IADC is unaware of any definition of the term "U.S. waters," which appears to be used synonymously with the defined term "waters of the United States," in this NPRM. IADC believes that usage of the correct term is critical to the enforcement and application of this proposed rulemaking to avoid any misunderstanding or uncertainty in the regulations and, therefore, recommends that the Coast Guard define the term "U.S. Waters," or alternatively replace it with "waters of the United States," which is already defined.

“Port or place of the United States”

The Coast Guard has used the term “port of place of the United States,” (Also understood to include other variations such as “United States port or place,” and “ports and places in the U. S.” in this rulemaking) without it being defined. Because of potential concerns regarding interpretation of 43 U.S.C. 1333, in IADC’s comments to three previous NPRMs (dockets USCG-2001-11865, USCG-2008-1088 and USCG-2008-1070), IADC requested clarification of this specific term, especially as it applies to Outer Continental Shelf (OCS) locations: the Coast Guard did not respond to our expressed concerns. We understand that the interpretation of this term may be different for each statute; and therefore, IADC requests that the Coast Guard provide a clear definition of the term, in consideration of the provisions of 43 U.S.C. 1333, for this rulemaking. We further recommend that standardization be applied to all variations of the term used in this rulemaking.

“Master, owner, operator, agent, person-in-charge”

IADC has noted an inconsistency in the Coast Guard’s denoting of the responsible individual(s) in this proposed rulemaking. In several sections the “master” (e.g. §151.1510(a), §151.1516(a)) is designated as the responsible individual, with other sections noting responsibility being allocated to the “master, owner, operator or person-in-charge” (e.g. §151.1512(a), §151.2025(a)), while yet another section (i.e. §151.2025(a)) expands further the previous group to include the term “agent.” IADC recommends that the Coast Guard select a consistent phrase to denote responsibility and, insofar as possible, uniformly apply it in the proposed regulations.

“Discharge Port” (§151.1516)

The written report to the COTP for compliance monitoring requires the vessel to provide the “intended discharge port” for ballast water, along with the location for sediment disposal. Since ballast may also be discharged in places outside of a port, IADC recommends that the term “location” be used in lieu of the word “port” in this section.

“Crew” (§151.2050)

The Coast Guard has included the “crew” amongst the list of those required to be trained in the application of the ballast water and sediment management and treatment procedures without defining the term. IADC requests that the Coast Guard clearly define this term, or, as an alternative, recommends replacing this term with a more descriptive (and limiting) verbiage, such as “personnel on board directly involved with the operation or maintenance of the ballast water management system.” Clearly, the entire crew need not be trained in the application of the ballast water management system.

Must or should (§151.2050)

IADC believes that portions of §151.2050 are intended to be discretionary rather than mandatory. For instance, it is discretionary to “minimize or avoid” the uptake of ballast water; however, it is mandatory that personnel receive training. Therefore, IADC recommends that the

Coast Guard separate and distinguish the requirements in this section into two categories of additional requirements: 1) mandatory (must) and; (2) discretionary (should).

Disposal of Sediment (§151.2050 (c))

The requirements for the disposal of sediment are dependent upon the vessel location. The local, State or Federal regulations certainly pertain during disposal under controlled arrangements in port or at drydock. In contrast, there are no requirements for disposal when the vessel is greater than 200 miles from any shore. Therefore, IADC recommends that the Coast Guard revise this paragraph to more accurately reflect when local, State or Federal regulations are applicable and when they are not.

“Jurisdiction of the United States” (§151.2070)

The Coast Guard has indicated that sediment cannot be discharged within the “jurisdiction of the United States,” without this term being defined. The interpretation of this term could apply to the activities of a U.S. flag vessel located anywhere in the world. IADC requests that the Coast Guard provide a clear definition of this term since it would be crucial for application, as well as enforcement of the regulations.

Hazardous location definition and associated incorporations by reference (§162.060–3)

IADC does not find the proposed definition of “hazardous location” and the associated proposed incorporations by reference of NFPA 70 (NEC) and IEC 79-0 to be particularly useful. We note that the definition proposed by the Coast Guard differs from those (there are two) in the NEC and, further, differs from that in the standards applicable to Mobile Offshore Drilling Units (*i.e.*, ISO 61892-7 and the 2009 MODU Code):

- *Hazardous location* means areas where fire or explosion hazards may exist due to the presence of flammable gases/vapors, flammable liquids, combustible dust, or ignitable fibers. Refer to NEC and IEC 79–0. (§ 162.060–3 Definitions, proposed)
- Locations where fire or explosion hazards may exist due to flammable gases, flammable liquid-produced vapors, combustible liquid-produced vapors, combustible dusts, or ignitable fibers/flyings (NEC, Article 500.1)
- Locations where fire or explosion hazards may exist due to flammable gases, vapors, or liquids. (NEC, Article 505.1)
- Area in which an explosive gas atmosphere is present, or may be expected to be present, in quantities such as to require special precautions for the construction, installation and use of apparatus (ISO 61892-7)

All those areas where, due to the possible presence of a flammable atmosphere arising from the drilling operations, the use without proper consideration of machinery or electrical

equipment may lead to fire hazard or explosion (2009 MODU Code). Other definitions also exist in API RP 500, API RP 505 and various classification society rules.

From a practical standpoint, the BWMS manufacturer (who, because of proprietary considerations is likely to be the only applicant for approval of a BWMS) will rely on a declaration from the client shipowner that the BWMS (or components of the BWMS) will need to be situated in a location classified as a hazardous location. The shipowner should provide the BWMS manufacturer with the classification of the hazardous location(s) in which the BWMS (or BWMS components) will be located and the identification of the standard by which it has been so classified, along with the identification of the relevant standards used on that particular ship to assure the suitability of electrical equipment for installation in classified hazardous locations.

For this reason, IADC suggests the following changes:

- (1) Revise the definition in § 162.060–3 to read as follows:
Hazardous location means areas where fire or explosion hazards may exist due to the presence of flammable gases/vapors, flammable liquids, combustible dust, or ignitable fibers, **as determined in accordance with the standards of construction applicable to the ship on which the BWMS is to be installed.** ~~Refer to NEC and IEC 79-0.~~
- (2) Delete the proposed incorporations by reference of the NEC and IEC 79-0 from § 162.060–5.
- (3) Revise § 162.060–18(d) to read as follows:
(d) BWMS **(or components of the BWMS)** must comply with the relevant requirements of 46 CFR subpart 111.105, **or the applicable requirements of the flag-State**, if it is intended to be fitted in hazardous locations. Any electrical equipment that is a component of the BWMS must be installed in a nonhazardous location unless certified as safe for use in a hazardous location. Any moving parts which are fitted in hazardous locations must be arranged in a manner that avoids the formation of static electricity.
- (4) Revise § 162.060–38(b)(4)(x) as follows:
(x) Information on whether the BWMS **(or components of the BWMS)** is designed to be used in hazardous locations ~~as defined in the NEC (incorporated by reference; see § 162.060–5) and in IEC 79-0 (incorporated by reference; see § 162.060–5) and, if so, the standards applied to assure the suitability of the equipment for operation in the hazardous locations.~~

Changes to International Maritime Organization BWMS approval (MEPC 59/2/16)

The IMO guidelines for BWMS approvals are currently under review for revision. IADC finds no indication within this proposed rulemaking that deals with incorporating changes made to the IMO guidelines for BWMS approvals. IADC requests that the Coast Guard address this issue within the proposed rulemaking and provide guidance for shipowners with regards to addressing

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changes made to the IMO guidelines for BWMS approvals, including how they may impact Coast Guard BWMS approval and vessel operation while in waters of the United States.

IADC appreciates the opportunity to comment on the proposed rulemaking and requests that our comments be given due consideration. If you have any questions about these comments or recommendations, please feel free to contact me by phone at (713) 292-1945, ext. 203.

Sincerely

A handwritten signature in black ink that reads "John Pertgen". The signature is written in a cursive style with a long horizontal flourish at the end.

John Pertgen
Assistant Director, Offshore Technical
and Regulatory Affairs