



## TECHNICAL CIRCULAR No. 089 of 5<sup>th</sup> December 2012

To:	All Surveyors/Auditor
Applicable to flag:	All Flags
Subject:	<b>Standards for Living Organisms in Ship's Ballast Water Discharged in US Waters</b>
Reference:	USCG – Ballast Water Management Plan

### **US Coast Guard “Standards for Living Organisms in Ship's Ballast Water Discharged in US Waters”**

1. The United States Coast Guard (USCG) final rule addressing “Standards for Living Organisms in Ship's Ballast Water Discharged in US Waters” (BWDS) was published in the US Federal Register (77 Fed. Reg. 17254) on 23 March 2012. The rule will become effective on 21 June 2012.
2. The final rule applies to two groups of vessels discharging ballast water into the waters of the US:
  - i. The first group is comprised of vessels currently required to conduct ballast water exchange (BWE), that is, all vessels, both US and foreign, equipped with ballast tanks that operate in the waters of the US (other than crude oil tankers engaged in coastwise trade, Department of Defense or Coast Guard vessels or any other vessel of the armed forces that are subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces", vessels which operate exclusively within one Captain of the Port (COTP) zone or vessels engaged in innocent passage).
  - ii. The second group, which was not previously required to conduct BWE, is comprised of seagoing vessels that do not operate beyond the US Exclusive Economic Zone (EEZ), that take on and discharge ballast water in more than one COTP zone, and are greater than 1,600 GRT (3000 GT ITC).

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**Comments:**

1. It should be noted that, with respect to the IMO BWM Convention:
  - a. the Convention will enter into force 12 months after ratification by 30 States with 35 percent of world merchant tonnage. Currently 33 States with 26.46 percent of world merchant tonnage have ratified the Convention.
  - b. the definitions of “new” and “existing” ships are different between the IMO Convention and the USCG final rule.
  - c. compliance by “existing ships” under the Convention is required not later than the “first intermediate or renewal survey, whichever occurs first, after the anniversary date of the ship in a specified year”, whereas the USCG final rule refers to the “first scheduled drydocking” after a specified date.
  
2. It should also be noted that each US State is entitled to impose more stringent requirements than the USCG standard. The USCG final rule defines the US federal regulations for ballast water management under the authority provided to the USCG under the *National Aquatic Nuisance Prevention Control Act* (NANPCA) and the *National Invasive Species Act* (NISA). The authority provided to individual US States to impose more stringent requirements for ballast water management is contained in the *Clean Water Act* (CWA).
  - 2.1 A legislative act of the US Congress would be required to amend the *Clean Water Act* or to issue another law preempting the individual US States from imposing more stringent requirements. The US House of Representatives adoption of HR Bill 2838 in November 2011 would, if passed by the US Senate and signed by the President, preempt individual US States from imposing more stringent requirements. At this time the US Senate has not completed its deliberations on the matter.

**REFERENCES:**

CLASS – Ballast Water Management Plan

**ATTACHMENTS:** No.

Kindest Regards,  
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