



TECHNICAL CIRCULAR No. 212 of 05th August 2014

To:	All Surveyors/Auditors
Applicable to flag:	All Flags
Subject:	Permanent Ballast Water
Reference:	BWTS(Ballast Water Treatment System)

Are Vessels with Permanent Ballast Water Required to Install BWTS?

The relevant US Coast Guard (“USCG”) regulations do not require vessels containing permanent ballast water to install a ballast water treatment system (“BWTS”) onboard.

In June 2012, the USCG’s Final Rule, *Standards for Living Organisms in Ships’ Ballast Water Discharged in U.S. Waters*, went into effect. This Final Rule established standards for the allowable concentration of living organisms in ballast water which is discharged into U.S. waters, and required certain vessels to operate an approved BWTS.

On page 30 of the Final Rule (in the section titled “Technical Issues”), the USCG specifically confirms that the regulations relating to BWTS do not relate to water sealed in ballast tanks, or water permanently ballasted. In particular, the USCG cites to:

(i) 33 CFR 151.1510(a)(2), which allows vessel subject to 33 CFR subpart C (vessels entering the waters of the Great Lakes and Hudson River) to “retain the ballast water onboard the vessel”; and 33 CFR 151.1510(a)(2) further provides that “if this method of ballast water management is employed, the COTP may seal any tank or hold containing ballast water on board the vessel for the duration of the voyage within the waters of the Great Lakes or the Hudson River, north of the George Washington Bridge.”

(ii) 33 CFR 151.2025(a), applies to vessels operating in the waters of the US, and provides: “The master, owner, operator, agent, or person in charge of a vessel equipped with ballast tanks that operates in the waters of the United States must employ one of the following ballast water management methods...(4) Do not discharge ballast water into waters of the United States.”

Notably, the International Maritime Organization’s (IMO) International Convention for the Control and Management of Ships’ Ballast Water and Sediments (“BWM Convention”), which is not yet in force, but which is commonly used as a guideline by the US in establishing its guidelines, does not apply to vessels not designed or constructed to carry ballast water, or to permanent ballast water in sealed tanks not subject to discharge.

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While New York State regulations differ from federal regulations, even under the New York regulations, no BWTS need be installed where a vessel has a permanently sealed ballast water tank not subject to discharge. The New York Department of Environmental Conservation issued a notice dated November 3, 2008, which provides that each vessel operating in New York waters is required to have a BWTS no later than January 1, 2012; however, this condition does not apply to vessels carrying only permanent ballast water in sealed tanks.

In the Supreme Court of New York matter, the Court expressly recognized that vessels carrying only permanently sealed ballast water tanks are excluded from the requirement that vessels operating in New York waters install a BWTS.

As such, a vessel with permanent ballast water in sealed tanks need not install a BWTS if travelling to the US (subject, of course, to the requirements of the State where the port is located), or in New York waters.

REFERENCES:

- USCG & BWTS

ATTACHMENTS: No.

Kindest Regards,

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