Title 40 —Protection of Environment

Chapter VII —Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces

Part 1700 Uniform National Discharge Standards for Vessels of the Armed Forces

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PART 1700—UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES

Authority: 33 U.S.C. 1322, 1361.

Source: 64 FR 25134, May 10, 1999, unless otherwise noted.

Subpart A—Scope

§ 1700.1 Applicability.

(a) This part applies to the owners and operators of Armed Forces vessels, except where the Secretary of Defense finds that compliance with this part is not in the interest of the national security of the United States. This part does not apply to vessels while they are under construction, vessels in drydock, amphibious vehicles, or vessels under the jurisdiction of the Department of Transportation other than those of the Coast Guard.

(b) This part also applies to States and political subdivisions of States.

§ 1700.2 Effect.

(a) This part identifies those discharges, other than sewage, incidental to the normal operation of vessels of the Armed Forces that require control within the navigable waters of the United States, including the territorial seas and the waters of the contiguous zone, and those discharges that do not require control. Discharges requiring control are identified in § 1700.4. Discharges not requiring control are identified in § 1700.5. Federal standards of performance for each required Marine Pollution Control Device are listed in §§ 1700.14 through 1700.38. Federal standards of performance apply to all vessels, whether existing or new, and regardless of vessel class, type, or size, unless otherwise expressly provided in §§ 1700.14 through 1700.38.

(b) This part prohibits States and their political subdivisions from adopting or enforcing State or local statutes or regulations controlling the discharges from Armed Forces vessels listed in §§ 1700.4 and 1700.5 according to the timing provisions in § 1700.6, except to establish a no-discharge zone by State prohibition in accordance with § 1700.9, or to apply for a no-discharge zone by EPA prohibition in accordance with § 1700.10. This part also provides a mechanism for States to petition the Administrator and the Secretary to review a determination of whether a discharge requires control, or to review a Federal standard of performance for a Marine Pollution Control Device, in accordance with §§ 1700.11 through 1700.13.

[64 FR 25134, May 10, 1999, as amended at 82 FR 3182, Jan. 11, 2017]

§ 1700.3 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency or that person's authorized representative.

Armed Forces vessel means a vessel owned or operated by the United States Department of Defense or the United States Coast Guard, other than vessels that are time or voyage chartered by the Armed Forces, vessels of the U.S. Army Corps of Engineers, or vessels that are memorials or museums.

Bioaccumulative means the opposite of *not bioaccumulative.*

Biodegradable means the following for purposes of the standards:

(1) Regarding *environmentally acceptable lubricants* and greases, *biodegradable* means lubricant formulations that contain at least 90% (weight in weight concentration or w/w) or grease formulations that contain at least 75% (w/w) of a constituent substance or constituent substances (only stated substances present above 0.10% must be assessed) that each demonstrate either the removal of at least 70% of dissolved organic carbon, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand within 28 days. Test methods include: Organization for Economic Co-operation and Development Test Guidelines 301 A-F, 306, and 310, ASTM 5864, ASTM D-7373, OCSPP Harmonized Guideline 835.3110, and International Organization for Standardization 14593:1999. For lubricant formulations, the 10% (w/w) of the formulation that need not meet the above biodegradability requirements, up to 5% (w/w) may be non-biodegradable, but not bioaccumulative, while the remaining 5-10% must be inherently biodegradable. For grease formulations, the 25% (w/w) of the formulation that need not meet the above biodegradability requirement, the constituent substances may be either inherently biodegradable or non-biodegradable, but may not be bioaccumulative. Test methods to demonstrate inherent biodegradability include: OECD Test Guidelines 302C (>70% biodegradation after 28 days) or OECD Test Guidelines 301 A-F (>20% but <60% biodegradation after 28 days).

(2) Regarding cleaning products, *biodegradable* means products that demonstrate either the removal of at least 70% of dissolved organic carbon, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand within 28 days. Test methods include: Organization for Economic Cooperation and Development Test Guidelines 301 A-F, 306, and 310, and International Organization for Standardization 14593:1999.

(3) Regarding biocidal substances, *biodegradable* means a compound or mixture that yields 60% of theoretical maximum carbon dioxide and demonstrate a removal of at least 70% of dissolved organic carbon within 28 days as described in EPA 712-C-98-075 (OPPTS 835.3100 Aerobic Aquatic Biodegradation).

Discharge incidental to the normal operation of a vessel means a discharge, including, but not limited to: graywater, bilgewater, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of a vessel; and a discharge in connection with the testing, maintenance, and repair of any of the aforementioned systems whenever the vessel is waterborne, including pierside. A discharge incidental to normal operation does not include:

(1) Sewage;

(2) A discharge of rubbish, trash, or garbage;

(3) A discharge of air emissions resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator;

(4) A discharge that requires a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act; or

(5) A discharge containing source, special nuclear, or byproduct materials regulated by the Atomic Energy Act.

Environmental Protection Agency, abbreviated EPA, means the United States Environmental Protection Agency.

Environmentally acceptable lubricants means lubricants that are *biodegradable, minimally-toxic,* and *not bioaccumulative* as defined in this subpart. The following labeling programs and organizations meet the definition of being *environmentally acceptable lubricants:* Blue Angel, European Ecolabel, Nordic Swan, the Swedish Standards SS 155434 and 155470, Safer Choice, and the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) requirements.

Federally-protected waters means waters within 12 miles of the United States that are also part of any of the following:

(1) Marine sanctuaries designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) or Marine National Monuments designated under the Antiquities Act of 1906;

(2) A unit of the National Wildlife Refuge System, including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Areas, and National Fish and Wildlife Refuges;

(3) National Wilderness Areas; and

(4) Any component designated under the National Wild and Scenic Rivers System.

Great Lakes means waters of the United States extending to the international maritime boundary with Canada in Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Marys River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the international maritime boundary with Canada).

Hazardous material means any hazardous material as defined in 49 CFR 171.8.

Marine Pollution Control Device, abbreviated MPCD, means any equipment or management practice installed or used on an Armed Forces vessel that is designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel, and that is determined by the Administrator and Secretary to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations in Clean Water Act section 312(n)(2)(B).

Minimally-toxic means a substance must pass either OECD 201, 202, and 203 for acute toxicity testing, or OECD 210 and 211 for chronic toxicity testing. For purposes of the standards, equivalent toxicity data for marine species, including methods ISO/DIS 10253 for algae, ISO TC147/SC5/W62 for crustacean, and OSPAR 2005 for fish, may be substituted for OECD 201, 202, and 203. If a substance is evaluated for the formulation and main constituents, the LC50 of fluids must be at least 100 mg/L and the LC50 of greases, two-stroke oils, and all other total loss lubricants must be at least 1000 mg/L. If a substance is evaluated for each constituent substance, rather than the complete formulation and main compounds, then constituents comprising less than 20% of fluids can have an LC50 between 10-100 mg/L or a no-observed-effect concentration (NOEC) between 1-10 mg/L, constituents comprising less than 5% of fluids can have an LC50 between 1-10 mg/L or a NOEC between 0.1-1 mg/L, and constituents comprising less than 1% of fluids, can have an LC50 less than 1 mg/L or a NOEC between 0-0.1 mg/L.

Minimally-toxic soaps, cleaners, and detergents means any substance or mixture of substances which has an acute aquatic toxicity value (LC50) corresponding to a concentration greater than 10 parts per million (ppm) and does not produce byproducts with an acute aquatic toxicity value (LC50) corresponding to a concentration less than 10 ppm. Minimally-toxic soaps, cleaners, and detergents typically contain little to no nonylphenols.

No-discharge zone means an area of specified waters established pursuant to this regulation into which one or more specified discharges incidental to the normal operation of Armed Forces vessels, whether treated or untreated, are prohibited.

Not bioaccumulative means any of the following: The partition coefficient in the marine environment is log Kow <3 or >7 using test methods OECD 117 and 107; molecular mass >800 Daltons; molecular diameter >1.5 nanometer; bioconcentration factor (BCF) or bioaccumulation factor (BAF) is <100 L/kg, using OECD 305, OCSPP 850.1710 or OCSPP 850.1730, or a field-measured BAF; or polymer with molecular weight (MW) fraction below 1,000 g/mol is <1%.

Person in charge (PIC) means the single individual named master of the vessel or placed in charge of the vessel, by the U.S. Department of Defense or by the Department in which the U.S. Coast Guard is operating, as appropriate, and who is responsible for the operation, manning, victualing, and supplying of the vessel of the Armed Forces. Examples of a PIC include, but are not limited to:

(1) A Commanding Officer, Officer in Charge, or senior commissioned officer on board the vessel;

(2) A civilian, military, or U.S. Coast Guard person assigned to a shore command or activity that has been designated as the PIC for one or more vessels, such as a group of boats or craft;

(3) A Tugmaster, Craftmaster, Coxswain, or other senior enlisted person onboard the vessel;

(4) A licensed civilian mariner onboard a Military Sealift Command vessel; or

(5) A contracted commercial person at a shore installation that is not part of the Armed Forces but as identified by the U.S. Department of Defense or the Department in which the U.S. Coast Guard is operating.

Phosphate-free soaps, cleaners, and detergents means any substance or mixture of substances which contain, by weight, 0.5% or less of phosphates or derivatives of phosphates.

Secretary means the Secretary of the United States Department of Defense or that person's authorized representative.

Toxic materials means any toxic pollutant identified in 40 CFR 401.15.

State means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

United States includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on navigable waters of the United States or waters of the contiguous zone, but does not include amphibious vehicles.

Waters subject to UNDS means the navigable waters of the United States, including the territorial seas and the waters of the contiguous zone, as these terms are defined in the Clean Water Act (33 U.S.C. 1362).

[64 FR 25134, May 10, 1999, as amended at 82 FR 3182, Jan. 11, 2017; 85 FR 43475, July 17, 2020]

Subpart B—Discharge Determinations

§ 1700.4 Discharges requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is reasonable and practicable to require use of a Marine Pollution Control Device for at least one class of vessel to mitigate adverse impacts on the marine environment:

(a) Aqueous Film-Forming Foam: the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations.

(b) Catapult Water Brake Tank & Post-Launch Retraction Exhaust: the oily water skimmed from the water tank used to stop the forward motion of an aircraft carrier catapult, and the condensed steam discharged when the catapult is retracted.

(c) Chain Locker Effluent: the accumulated precipitation and seawater that is emptied from the compartment used to store the vessel's anchor chain.

(d) Clean Ballast: the seawater taken into, and discharged from, dedicated ballast tanks to maintain the stability of the vessel and to adjust the buoyancy of submarines.

(e) Compensated Fuel Ballast: the seawater taken into, and discharged from, ballast tanks designed to hold both ballast water and fuel to maintain the stability of the vessel.

(f) Controllable Pitch Propeller Hydraulic Fluid: the hydraulic fluid that discharges into the surrounding seawater from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers.

(g) Deck Runoff: the precipitation, washdowns, and seawater falling on the weather deck of a vessel and discharged overboard through deck openings.

(h) Dirty Ballast: the seawater taken into, and discharged from, empty fuel tanks to maintain the stability of the vessel.

(i) Distillation and Reverse Osmosis Brine: the concentrated seawater (brine) produced as a byproduct of the processes used to generate freshwater from seawater.

(j) Elevator Pit Effluent: the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels.

(k) Firemain Systems: the seawater pumped through the firemain system for firemain testing, maintenance, and training, and to supply water for the operation of certain vessel systems.

(l) Gas Turbine Water Wash: the water released from washing gas turbine components.

(m) Graywater: galley, bath, and shower water, as well as wastewater from lavatory sinks, laundry, interior deck drains, water fountains, and shop sinks.

(n) Hull Coating Leachate: the constituents that leach, dissolve, ablate, or erode from the paint on the hull into the surrounding seawater.

(o) Motor Gasoline and Compensating Discharge: the seawater taken into, and discharged from, motor gasoline tanks to eliminate free space where vapors could accumulate.

(p) Non-Oily machinery wastewater: the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, and propulsion engine jacket coolers.

(q) Photographic Laboratory Drains: the laboratory wastewater resulting from processing of photographic film.

(r) Seawater Cooling Overboard Discharge: the discharge of seawater from a dedicated system that provides noncontact cooling water for other vessel systems.

(s) Seawater Piping Biofouling Prevention: the discharge of seawater containing additives used to prevent the growth and attachment of biofouling organisms in dedicated seawater cooling systems on selected vessels.

(t) Small Boat Engine Wet Exhaust: the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine.

(u) Sonar Dome Discharge: the leaching of antifoulant materials into the surrounding seawater and the release of seawater or freshwater retained within the sonar dome.

(v) Submarine Bilgewater: the wastewater from a variety of sources that accumulates in the lowest part of the submarine (i.e., bilge).

(w) Surface Vessel Bilgewater/Oil-Water Separator Effluent: the wastewater from a variety of sources that accumulates in the lowest part of the vessel (the bilge), and the effluent produced when the wastewater is processed by an oil water separator.

(x) Underwater Ship Husbandry: the materials discharged during the inspection, maintenance, cleaning, and repair of hulls performed while the vessel is waterborne.

(y) Welldeck Discharges: the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck.

§ 1700.5 Discharges not requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is not reasonable or practicable to require use of a Marine Pollution Control Device to mitigate adverse impacts on the marine environment:

(a) Boiler Blowdown: the water and steam discharged when a steam boiler is blown down, or when a steam safety valve is tested.

(b) Catapult Wet Accumulator Discharge: the water discharged from a catapult wet accumulator, which stores a steam/water mixture for launching aircraft from an aircraft carrier.

(c) Cathodic Protection: the constituents released into surrounding water from sacrificial anode or impressed current cathodic hull corrosion protection systems.

(d) Freshwater Lay-up: the potable water that is discharged from the seawater cooling system while the vessel is in port, and the cooling system is in lay-up mode (a standby mode where seawater in the system is replaced with potable water for corrosion protection).

(e) Mine Countermeasures Equipment Lubrication: the constituents released into the surrounding seawater by erosion or dissolution from lubricated mine countermeasures equipment when the equipment is deployed and towed.

(f) Portable Damage Control Drain Pump Discharge: the seawater pumped through the portable damage control drain pump and discharged overboard during testing, maintenance, and training activities.

(g) Portable Damage Control Drain Pump Wet Exhaust: the seawater mixed and discharged with portable damage control drain pump exhaust to cool the exhaust and quiet the engine.

(h) Refrigeration and Air Conditioning Condensate: the drainage of condensed moisture from air conditioning units, refrigerators, freezers, and refrigerated spaces.

(i) Rudder Bearing Lubrication: the oil or grease released by the erosion or dissolution from lubricated bearings that support the rudder and allow it to turn freely.

(j) Steam Condensate: the condensed steam discharged from a vessel in port, where the steam originates from port facilities.

(k) Stern Tube Seals and Underwater Bearing Lubrication: the seawater pumped through stern tube seals and underwater bearings to lubricate and cool them during normal operation.

(l) Submarine Acoustic Countermeasures Launcher Discharge: the seawater that is mixed with acoustic countermeasure device propulsion gas following a countermeasure launch that is then exchanged with surrounding seawater, or partially drained when the launch assembly is removed from the submarine for maintenance.

(m) Submarine Emergency Diesel Engine Wet Exhaust: the seawater that is mixed and discharged with submarine emergency diesel engine exhaust to cool the exhaust and quiet the engine.

(n) Submarine Outboard Equipment Grease and External Hydraulics: the grease released into the surrounding seawater by erosion or dissolution from submarine equipment exposed to seawater.

Subpart C—Effect on States

§ 1700.6 Effect on State and local statutes and regulations.

(a) After the effective date of a final rule determining that it is not reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge, except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(b)

(1) After the effective date of a final rule determining that it is reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States may apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10) for that discharge.

(2) After the effective date of a final rule promulgated by the Secretary governing the design, construction, installation, and use of a Marine Pollution Control Device for a discharge listed in § 1700.4, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(c) The Governor of any State may submit a petition requesting that the Administrator and Secretary review a determination of whether a Marine Pollution Control Device is required for any discharge listed in § 1700.4 or § 1700.5, or review a Federal standard of performance for a Marine Pollution Control Device.

NO-DISCHARGE ZONES

§ 1700.7 No-discharge zones.

For this part, a no-discharge zone is a waterbody, or portion thereof, where one or more discharges incidental to the normal operation of Armed Forces vessels, whether treated or not, are prohibited. A no-discharge zone is established either by State prohibition using the procedures in § 1700.9, or by EPA prohibition, upon application of a State, using the procedures in § 1700.10.

§ 1700.8 Discharges for which no-discharge zones can be established.

(a) A no-discharge zone may be established by State prohibition for any discharge listed in § 1700.4 or § 1700.5 following the procedures in § 1700.9. A no-discharge zone established by a State using these procedures may apply only to those discharges that have been preempted from other State or local regulation pursuant to § 1700.6.

(b) A no-discharge zone may be established by EPA prohibition for any discharge listed in § 1700.4 or § 1700.5 following the procedures in § 1700.10.

§ 1700.9 No-discharge zones by State prohibition.

(a) A State seeking to establish a no-discharge zone by State prohibition must send to the Administrator the following information:

(1) The discharge from § 1700.4 or § 1700.5 to be prohibited within the no-discharge zone.

(2) A detailed description of the waterbody, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A determination that the protection and enhancement of the waters described in paragraph (a)(2) of this section require greater environmental protection than provided by existing Federal standards.

(4) A complete description of the facilities reasonably available for collecting the discharge including:

(i) A map showing their location(s) and a written location description.

(ii) A demonstration that the facilities have the capacity and capability to provide safe and sanitary removal of the volume of discharge being prohibited in terms of both vessel berthing and discharge reception.

(iii) The schedule of operating hours of the facilities.

(iv) The draft requirements of the vessel(s) that will be required to use the facilities and the available water depth at the facilities.

(v) Information showing that handling of the discharge at the facilities is in conformance with Federal law.

(5) Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition. If the State is not applying the prohibition to all vessels in the area, the State must demonstrate the technical or environmental basis for applying the prohibition only to Armed Forces vessels. The following information must be included in the technical or environmental basis for treating Armed Forces vessels differently:

(i) An analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels.

(ii) A description of State efforts to control the discharge from non-Armed Forces vessels.

(b) The information provided under paragraph (a) of this section must be sufficient to enable EPA to make the two determinations listed below. Prior to making these determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of any prohibition on Armed Forces vessels.

(1) Adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the specified waters.

(2) The prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessels.

(c) EPA will notify the State in writing of the result of the determinations under paragraph (b) of this section, and will provide a written explanation of any negative determinations. A no-discharge zone established by State prohibition will not go into effect until EPA determines that the conditions of paragraph (b) of this section have been met.

§ 1700.10 No-discharge zones by EPA prohibition.

(a) A State requesting EPA to establish a no-discharge zone must send to the Administrator an application containing the following information:

(1) The discharge from § 1700.4 or § 1700.5 to be prohibited within the no-discharge zone.

(2) A detailed description of the waterbody, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A technical analysis showing why protection and enhancement of the waters described in paragraph (a)(2) of this section require a prohibition of the discharge. The analysis must provide specific information on why the discharge adversely impacts the zone and how prohibition will protect the zone. In addition, the analysis should characterize any sensitive areas, such as aquatic sanctuaries, fish-spawning and nursery areas, pristine areas, areas not meeting water quality standards, drinking water intakes, and recreational areas.

(4) A complete description of the facilities reasonably available for collecting the discharge including:

(i) A map showing their location(s) and a written location description.

(ii) A demonstration that the facilities have the capacity and capability to provide safe and sanitary removal of the volume of discharge being prohibited in terms of both vessel berthing and discharge reception.

(iii) The schedule of operating hours of the facilities.

(iv) The draft requirements of the vessel(s) that will be required to use the facilities and the available water depth at the facilities.

(v) Information showing that handling of the discharge at the facilities is in conformance with Federal law.

(5) Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition. If the State is not applying a prohibition to other vessels in the area, the State must demonstrate the technical or environmental basis for applying a prohibition only to Armed Forces vessels. The following information must be included in the technical or environmental basis for treating Armed Forces vessels differently:

(i) An analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels.

(ii) A description of State efforts to control the discharge from non-Armed Forces vessels.

(b) The information provided under paragraph (a) of this section must be sufficient to enable EPA to make the three determinations listed below. Prior to making these determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of the prohibition on Armed Forces vessels.

(1) The protection and enhancement of the specified waters require a prohibition of the discharge.

(2) Adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the specified waters.

(3) The prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, or the vessels.

(c) If the three conditions in paragraph (b) of this section are met, EPA will by regulation establish the no-discharge zone. If the conditions in paragraphs (b) (1) and (3) of this section are met, but the condition in paragraph (b)(2) of this section is not met, EPA may establish the no-discharge zone if it determines that the significance of the waters and the potential impact of the discharge are of sufficient magnitude to warrant any resulting constraints on Armed Forces vessels.

(d) EPA will notify the State of its decision on the no-discharge zone application in writing. If EPA approves the no-discharge zone application, EPA will by regulation establish the no-discharge zone by modification to this part. A no-discharge zone established by EPA prohibition will not go into effect until the effective date of the regulation.

STATE PETITION FOR REVIEW

§ 1700.11 State petition for review of determinations or standards.

The Governor of any State may submit a petition requesting that the Administrator and Secretary review a determination of whether a Marine Pollution Control Device is required for any discharge listed in § 1700.4 or § 1700.5, or review a Federal standard of performance for a Marine Pollution Control Device. A State may submit a petition only where there is new, significant information not considered previously by the Administrator and Secretary.

§ 1700.12 Petition requirements.

A petition for review of a determination or standard must include:

(a) The discharge from § 1700.4 or § 1700.5 for which a change in determination is requested, or the performance standard from § 1700.14 for which review is requested.

(b) The scientific and technical information on which the petition is based.

(c) A detailed explanation of why the State believes that consideration of the new information should result in a change to the determination or the standard on a nationwide basis, and an explanation of how the new information is relevant to one or more of the following factors:

(1) The nature of the discharge.

(2) The environmental effects of the discharge.

(3) The practicability of using a Marine Pollution Control Device.

(4) The effect that installation or use of the Marine Pollution Control Device would have on the operation or operational capability of the vessel.

(5) Applicable United States law.

(6) Applicable international standards.

(7) The economic costs of the installation and use of the Marine Pollution Control Device.

§ 1700.13 Petition decisions.

The Administrator and the Secretary will evaluate the petition and grant or deny the petition no later than two years after the date of receipt of the petition. If the Administrator and Secretary grant the petition, they will undertake rulemaking to amend this part. If the Administrator and Secretary deny the petition, they will provide the State with a written explanation of why they denied it.

Subpart D—Marine Pollution Control Device (MPCD) Performance Standards

Source: 82 3183, Jan. 11, 2017, unless otherwise noted.

§ 1700.14 Aqueous film-forming foam.

(a) For the purposes of this section, regulated aqueous film-forming foam (AFFF) refers only to firefighting foam and seawater mixture discharged during training, testing, or maintenance operations.

(b) For all vessels that sail seaward of waters subject to UNDS at least once per month, the discharge of AFFF is prohibited.

(c) For all vessels that do not sail seaward of waters subject to UNDS at least once per month:

(1) The discharge of fluorinated AFFF is prohibited; and

(2) The discharges of non-fluorinated or alternative foaming agent are prohibited in port or in or near federally-protected waters, and must occur as far from shore as possible.

§ 1700.15 Catapult water brake tank & post-launch retraction exhaust.

(a) Discharges of catapult water brake tank effluent are prohibited.

(b) The number of post-launch retractions must be limited to the minimum number required to test and validate the system and conduct qualification and operational training.

[85 FR 43475, July 17, 2020]

§ 1700.16 Chain locker effluent.

(a) For all vessels, except submarines, the anchor chain must be carefully and thoroughly washed down (*i.e.,* more than a cursory rinse) as it is being hauled out of the water to remove sediment and organisms.

(b) For all vessels, the chain lockers must be cleaned periodically to eliminate accumulated sediments and any potential accompanying pollutants. The dates of all chain locker inspections must be recorded in the ship's log or other vessel recordkeeping documentation.

(c) For all vessels that sail seaward of waters subject to UNDS at least once per month, the rinsing or pumping out of chain lockers is prohibited.

(d) For all vessels that do not sail seaward of waters subject to UNDS at least once per month, the rinsing or pumping out of chain lockers must occur as far from shore as possible and, if technically feasible, the rinsing or pumping out of chain lockers must not occur in federally-protected waters.

§§ 1700.17-1700.18 [Reserved]

§ 1700.19 Controllable pitch propeller hydraulic fluid.

(a) The protective seals on controllable pitch propellers must be maintained to minimize the leaking of hydraulic fluid.

(b) To the greatest extent practicable, maintenance activities on controllable pitch propellers must be conducted when a vessel is in drydock. If maintenance and repair activities must occur when the vessel is not in drydock, appropriate spill response equipment (*e.g.,* oil booms) must be used to contain and clean any oil leakage.

(c) The discharge of controllable pitch propeller hydraulic fluid must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a (as defined in 40 CFR 136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

[85 FR 43475, July 17, 2020]

§ 1700.20 Deck runoff.

(a) Flight deck washdowns are prohibited.

(b) Minimize deck washdowns while in port and in federally-protected waters.

(c) Prior to performing a deck washdown, exposed decks must be broom cleaned and on-deck debris, garbage, paint chips, residues, and spills must be removed, collected, and disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.

(d) If a deck washdown or above water line hull cleaning will result in a discharge, it must be conducted with minimally-toxic and phosphate-free soaps, cleaners, and detergents. The use of soaps that are labeled toxic is prohibited. Furthermore, soaps, cleaners, and detergents should not be caustic and must be biodegradable. All soaps and cleaners must be used as directed by the label.

(e) Where feasible, machinery on deck must have coamings or drip pans, where necessary, to prevent spills and collect any oily discharge that may leak from machinery. The drip pans must be drained to a waste container for disposal onshore in accordance with any applicable oil and hazardous substance management and disposal requirements. The presence of floating solids, visible foam, halogenated phenol compounds, dispersants, and surfactants in deck washdowns must be minimized.

(f) Topside surfaces and other above water line portions of the vessel must be well maintained to minimize the discharge of rust (and other corrosion by-products), cleaning compounds, paint chips, non-skid material fragments, and other materials associated with exterior topside surface preservation. Residual paint droplets entering the water must be minimized when conducting maintenance painting. The discharge of unused paint is prohibited. Paint chips and unused paint residues must be collected and disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.

(g) When vessels conduct underway fuel replenishment, scuppers must be plugged to prevent the discharge of oil. Any oil spilled must be cleaned, managed, and disposed of onshore in accordance with any applicable oil and hazardous substance management and disposal requirements.

[85 FR 43475, July 17, 2020]

§ 1700.21 [Reserved]

§ 1700.22 Distillation and reverse osmosis brine.

The discharge of brine from the distillation system and the discharge of reverse osmosis reject water are prohibited if they come in contact with machinery or industrial equipment (other than distillation or reverse osmosis machinery), toxic or hazardous materials, or wastes.

§ 1700.23 Elevator pit effluent.

(a) The direct discharge of elevator pit effluent is prohibited.

(b) Notwithstanding the prohibition of direct discharges of elevator pit effluent overboard, if the elevator pit effluent is commingled with any other discharge for the purposes of treatment prior to discharge, then under no circumstances may oils, including oily mixtures, be discharged from that combined discharge in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

§ 1700.24 Firemain systems.

(a) Firemain systems may be discharged for testing and inspections of the firemain system. To the greatest extent practicable, conduct maintenance and training outside of port and as far away from shore as possible. Firemain systems may be discharged in port for certification, maintenance, and training requirements if the intake comes directly from the surrounding waters or potable water supplies and there are no additions (*e.g.,* aqueous film-forming foam) to the discharge.

(b) Firemain systems must not be discharged in federally-protected waters except when needed to washdown the anchor chain to comply with anchor washdown requirements in Subpart 1700.16.

(c) Firemain systems may be used for secondary uses if the intake comes directly from the surrounding waters or potable water supplies.

[85 FR 43476, July 17, 2020]

§ 1700.25 Gas turbine water wash.

(a) The direct discharge of gas turbine water wash is prohibited.

(b) To the greatest extent practicable, gas turbine water wash must be collected separately and disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.

(c) Notwithstanding the prohibition of direct discharges of gas turbine water wash overboard, if the gas turbine water wash is commingled with any other discharge for the purposes of treatment prior to discharge then under no circumstances may oils, including oily mixtures be discharged from that combined discharge in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

§ 1700.26 Graywater.

(a) For discharges from vessels that have the capacity to hold graywater:

(1) Graywater must not be discharged in federally-protected waters or the Great Lakes.

(2) Graywater must not be discharged within one mile of shore if an onshore facility is available and disposal at such a facility is reasonable and practicable.

(3) Production and discharge of graywater must be minimized within one mile of shore when an onshore facility is either not available or use of such a facility is not reasonable and practicable.

(b) For discharges from vessels that do not have the capacity to hold graywater:

(1) Production and discharge of graywater must be minimized in federally-protected waters or the Great Lakes.

(2) Graywater must not be discharged within one mile of shore if an onshore facility is available and disposal at such a facility is reasonable and practicable.

(3) Production and discharge of graywater must be minimized within one mile of shore when an onshore facility is either not available or use of such a facility is not reasonable and practicable.

(c) Large quantities of cooking oils (*e.g.,* from a deep fat fryer), including animal fats and vegetable oils, must not be added to the graywater system. Small quantities of cooking oils (*e.g.,* from pot and dish rinsing) must be minimized if added to the graywater system within three miles of shore.

(d) Minimally-toxic soaps, cleaners, and detergents and phosphate-free soaps, cleaners, and detergents must be used in the galley, scullery, and laundry. These soaps, cleaners, and detergents should also be free from bioaccumulative compounds and not lead to extreme shifts in the receiving water pH. For purposes of this subparagraph, extreme shifts means causing the receiving water pH to fall below 6.0 or rise above 9.0 as a direct result of the discharge.

(e) The discharge of graywater must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a (as defined at 40 CFR 136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

[85 FR 43476, July 17, 2020]

§ 1700.27 Hull coating leachate.

(a) Antifouling hull coatings subject to registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C 136 *et seq.*) must be applied, maintained, and removed in a manner consistent with requirements on the coatings' FIFRA label.

(b) Antifouling hull coatings not subject to FIFRA registration (*i.e.,* exempt or not produced for sale and distribution in the United States) must not contain any biocides or *toxic materials* banned for use in the United States. This performance standard applies to all vessels, including vessels with a hull coating applied outside the United States.

(c) Antifouling hull coatings must not contain tributyltin (TBT).

(d) Antifouling hull coatings must not contain any organotin compounds when the organotin is used as a biocide. Antifouling hull coatings may contain small quantities of organotin compounds other than tributyltin (*e.g.,* dibutyltin) when the organotin is acting as a chemical catalyst and not present above 2,500 milligrams total tin per kilogram of dry paint film. In addition, any antifouling hull coatings containing organotin must be designed to not slough or peel from the vessel hull.

(e) Antifouling hull coatings that contain TBT or other organotin compounds that are used as a biocide must be removed or an overcoat must be applied.

(f) Incidental amounts of antifouling hull coating discharged after contact with other hard surfaces (*e.g.,* moorings) are permissible.

(g) To the greatest extent practicable, use non-copper based and less toxic antifouling hull coatings. To the greatest extent practicable, use antifouling hull coatings with the lowest effective biocide release rates, rapidly biodegradable components (once separated from the hull surface), or use non-biocidal alternatives, such as silicone coatings.

(h) To the greatest extent practicable, avoid use of antifouling hull coatings on vessels that are regularly removed from the water and unlikely to accumulate hull growth.

[85 FR 43476, July 17, 2020]

§ 1700.28 Motor gasoline and compensating discharge.

(a) The discharge of motor gasoline and compensating effluent must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a (as defined at 40 CFR136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

(b) The discharge of motor gasoline and compensating effluent must be minimized in port. If an oily sheen is observed, any spill or overflow of oil must be cleaned up, recorded, and reported to the National Response Center immediately.

(c) The discharge of motor gasoline and compensating effluent is prohibited in federally-protected waters.

[85 FR 43476, July 17, 2020]

§ 1700.29 Non-oily machinery wastewater.

The discharge of non-oily machinery wastewater must not contain any additives that are toxic or bioaccumulative in nature, and under no circumstances may oils, including oily mixtures, be discharged in quantities that:

(a) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(b) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(c) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(d) Otherwise are harmful to the public health or welfare of the United States.

§ 1700.30 Photographic laboratory drains.

The discharge of photographic laboratory drains is prohibited.

§ 1700.31 Seawater cooling overboard discharge.

(a) For discharges from vessels that are less than 79 feet in length:

(1) To the greatest extent practicable, minimize non-contact engine cooling water, hydraulic system cooling water, refrigeration cooling water and other seawater cooling overboard discharges when the vessel is in port.

(2) To reduce the production and discharge of seawater cooling overboard discharge, the vessel should use shore based power when in port if:

(i) Shore power is readily available for the vessel from utilities or port authorities; and

(ii) Shore based power supply systems are capable of providing all needed electricity required for vessel operations; and

(iii) The vessel is equipped to connect to shore-based power and such systems are compatible with the available shore power.

(3) Fouling organisms must be removed from seawater piping on a regular basis. The discharge of fouling organisms removed during cleanings is prohibited.

(b) For discharges from vessels that are greater than or equal to 79 feet in length:

(1) To the greatest extent practicable, minimize non-contact engine cooling water, hydraulic system cooling water, refrigeration cooling water and other seawater cooling overboard discharges when the vessel is in port.

(2) To reduce the production and discharge of seawater cooling overboard discharge, the vessel should use shore based power when in port if:

(i) Shore power is readily available for the vessel from utilities or port authorities; and

(ii) Shore based power supply systems are capable of providing all needed electricity required for vessel operations; and

(iii) The vessel is equipped to connect to shore-based power and such systems are compatible with the available shore power.

(3) Maintenance of all piping and seawater cooling systems must meet the requirements of § 1700.32 (Seawater Piping Biofouling Prevention). For all vessels, except submarines, fouling organisms removed during maintenance must not be discharged.

§ 1700.32 Seawater piping biofouling prevention.

(a) Seawater piping biofouling chemicals subject to registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*) must be used in accordance with the FIFRA label. Pesticides or chemicals banned for use in the United States must not be discharged.

(b) To the greatest extent practicable, only the minimum amount of biofouling chemicals must be used to keep fouling under control.

(c) Fouling organisms must be removed from seawater piping on a regular basis. For all vessels, except submarines, the discharge of fouling organisms removed during cleanings is prohibited.

§ 1700.33 Small boat engine wet exhaust.

(a) For the purposes of this section small boat engine wet exhaust discharges refers only to discharges from vessels that are less than 79 feet in length.

(b) Vessels generating small boat engine wet exhaust must be maintained in good operating order, well-tuned, and functioning according to manufacturer specifications, in order to decrease pollutant concentrations and volumes in small boat engine wet exhaust.

(c) To the greatest extent practicable, low sulfur or alternative fuels must be used to reduce the concentration of pollutants in discharges from small boat engine wet exhaust.

(d) To the greatest extent practicable, use four-stroke engines instead of two-stroke engines for vessels generating small boat engine wet exhaust.

(e) Vessels using two-stroke engines must use environmentally acceptable lubricants unless use of such lubricants is technologically infeasible. If technologically infeasible, the use and justification for the use of a non-environmentally acceptable lubricant must be recorded in the vessel recordkeeping documentation.

§ 1700.34 Sonar dome discharge.

(a) The water inside the sonar dome must not be discharged for maintenance activities unless the use of a drydock for the maintenance activity is not feasible.

(b) The water inside the sonar dome may be discharged for equalization of pressure between the interior and exterior of the dome.

(c) A biofouling chemical that is bioaccumulative should not be applied to the exterior of a sonar dome when a non-bioaccumulative alternative is available.

[85 FR 43476, July 17, 2020]

§ 1700.35 Submarine bilgewater.

The discharge of submarine bilgewater:

(a) Must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 parts per million (ppm) as measured by EPA Method 1664a (as defined at 40 CFR 136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

(b) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances added for the purposes of removing the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.

(c) Must only contain substances that are produced in the normal operation of a vessel. Oil solidifiers, flocculants or other additives (excluding any dispersants or surfactants) may be used to enhance oil-water separation during processing in an oil-water separator only if such solidifiers, flocculants, or other additives are minimized in the discharge and do not alter the chemical makeup of the oils being discharged. Solidifiers, flocculants, or other additives must not be directly added, or otherwise combined with, the water in the bilge. Additionally, the vessel must employ management practices that will minimize the leakage of oil and other harmful pollutants into the bilge.

(d) Must not occur in port if the port has the capability to collect and transfer the submarine bilgewater to an onshore facility.

(e) Must be minimized and, if technologically feasible, discharged as far from shore as possible.

(f) Must be minimized in federally-protected waters.

[85 FR 43477, July 17, 2020]

§ 1700.36 Surface vessel bilgewater/oil-water separator effluent.

(a) All surface vessels must employ management practices that will minimize leakage of oil and other harmful pollutants into the bilge.

(b) Surface vessels equipped with an oil-water separator must not discharge bilgewater and must only discharge oil-water separator effluent through an oil-content monitor consistent with paragraph (c) of this section. All surface vessels greater than 400 gross tons must be equipped with an oil-water separator. Surface vessels not equipped with an oil-water separator must only discharge bilgewater consistent with paragraph (d) of this section.

(c) The discharge of oil-water separator effluent:

(1) Must not contain oil in quantities that:

(i) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(ii) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(iii) Contain an oil content above 15 ppm as measured by EPA Method 1664a (as defined at 40 CFR 136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(iv) Otherwise are harmful to the public health or welfare of the United States.

(2) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances added for the purposes of removing the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.

(3) Must only contain substances that are produced in the normal operation of a vessel. Oil solidifiers, flocculants or other additives (excluding any dispersants or surfactants) may be used to enhance oil-water separation during processing in an oil-water separator only if such solidifiers, flocculants, or other additives are minimized in the discharge and do not alter the chemical make-up of the oils being discharged. Solidifiers, flocculants, or other additives must not be directly added, or otherwise combined with, the water in the bilge.

(4) Must not occur in port if the vessel has the capability to collect and transfer oil-water separator effluent to an onshore facility.

(5) Must be minimized within one mile of shore.

(6) Must occur while sailing at speeds greater than six knots, if the vessel is underway.

(7) Must be minimized in federally-protected waters.

(d) The discharge of bilgewater (*i.e.,* wastewater from the bilge that has not been processed through an oil-water separator):

(1) Must not occur if the vessel has the capability to collect, hold, and transfer bilgewater to an onshore facility.

(2) Notwithstanding the prohibition of the discharge of bilgewater from vessels that have the capability to collect, hold, and transfer bilgewater to an onshore facility; the discharge of bilgewater:

(i) Must not contain dispersants, detergents, emulsifiers, chemicals, or other substances added for the purposes of removing the appearance of a visible sheen. This performance standard does not prohibit the use of these materials in machinery spaces for the purposes of cleaning and maintenance activities associated with vessel equipment and structures.

(ii) Must only contain substances that are produced in the normal operation of a vessel. Routine cleaning and maintenance activities associated with vessel equipment and structures are considered to be normal operation of a vessel.

(iii) Must not contain oil in quantities that:

(A) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(B) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(C) Contain an oil content above 15 ppm as measured by EPA Method 1664a (as defined at 40CFR 136.3) or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(D) Otherwise are harmful to the public health or welfare of the United States.

(iv) Must be suspended immediately if a visible sheen is observed. Any spill or overflow of oil or other engine fluids must be cleaned up, recorded, and reported to the National Response Center immediately.

[85 FR 43477, July 17, 2020]

§ 1700.37 Underwater ship husbandry.

(a) For discharges from vessels that are less than 79 feet in length:

(1) To the greatest extent practicable, vessel hulls with an antifouling hull coating must not be cleaned within 90 days after the antifouling coating application.

(2) Vessel hulls must be inspected, maintained, and cleaned to minimize the removal and discharge of antifouling coatings and the transport of fouling organisms. To the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility where the removed fouling organisms or spent antifouling coatings can be disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.

(3) Prior to the transport of the vessel overland from one body of water to another, vessel hulls must be inspected for any visible attached living organisms. If fouling organisms are found, they must be removed and disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.

(4) Vessel hull cleanings must be conducted in a manner that minimizes the release of antifouling hull coatings and fouling organisms, including:

(i) Adhere to any applicable cleaning requirements found on the coatings' FIFRA label.

(ii) Use soft brushes or less abrasive cleaning techniques to the greatest extent practicable.

(iii) Use hard brushes only for the removal of hard growth.

(iv) Use a vacuum or other collection/control technology, when available and feasible. Residues filtered, precipitated, or otherwise removed by any vacuum technology must be disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.

(b) For discharges from vessels that are greater than or equal to 79 feet in length:

(1) To the greatest extent practicable, vessel hulls with an antifouling hull coating must not be cleaned within 90 days after the antifouling coating application. To the greatest extent practicable, vessel hulls with copper-based antifouling coatings must not be cleaned within 365 days after coating application.

(2) Vessel hulls must be inspected, maintained, and cleaned to minimize the removal and discharge of antifouling coatings and the transport of fouling organisms. To the greatest extent practicable, rigorous vessel hull cleanings must take place in drydock or at a land-based facility where the removed fouling organisms or spent antifouling coatings can be disposed of onshore in accordance with any applicable solid waste or hazardous substance management and disposal requirements.

(3) Vessel hull cleanings must be conducted in a manner that minimizes the release of antifouling hull coatings and fouling organisms, including:

(i) Adhere to any applicable cleaning requirements found on the coatings' FIFRA label.

(ii) Use soft brushes or less abrasive cleaning techniques to the greatest extent practicable.

(iii) Use hard brushes only for the removal of hard growth.

(iv) Use a vacuum or other collection/control technology, when available and feasible. Residues filtered, precipitated, or otherwise removed by any vacuum technology must be disposed of onshore in accordance with any applicable solid waste and hazardous substance management and disposal requirements.

[85 FR 43477, July 17, 2020]

§ 1700.38 Welldeck discharges.

(a) Welldeck discharges that contain graywater from smaller vessels are prohibited.

(b) Welldeck discharges containing washdown from gas turbine engines are prohibited within three miles of the United States and to the greatest extent practicable must be discharged seaward of waters subject to UNDS.

(c) Welldeck discharges from equipment and vehicle washdowns must not contain garbage and must not contain oil in quantities that:

(1) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; or

(2) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines; or

(3) Contain an oil content above 15 ppm as measured by EPA Method 1664a or other appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (*e.g.,* ISO Method 9377) or U.S. Coast Guard; or

(4) Otherwise are harmful to the public health or welfare of the United States.

§ 1700.39 Exceptions.

(a) Notwithstanding each of the MPCD performance standards established in this Part, a vessel of the Armed Forces is authorized to discharge, into waters subject to UNDS, when the PIC or their designated representative determines that such discharge is necessary to prevent loss of life, personal injury, vessel endangerment, or severe damage to the vessel.

(b) A vessel of the Armed Forces must maintain the following records for all discharges under paragraph (a) of this section:

(1) Name and title of the PIC who determined the necessity of the discharge;

(2) Date, location, and estimated volume of the discharge;

(3) Explanation of the reason the discharge occurred; and

(4) Actions taken to avoid, minimize, or otherwise mitigate the discharge.

(c) All records prepared under paragraph (b) of this section must be maintained in accordance with § 1700.41.

§ 1700.40 Commingling of discharges.

If two or more regulated discharge streams are combined into one, the resulting discharge stream must meet the requirements applicable to all discharge streams that are combined prior to discharge.

§ 1700.41 Records.

(a) All records must be generated and maintained in the ship's logs (main, engineering, and/or damage control) or an UNDS Record Book and must include the following information:

(1) Vessel owner information (*e.g.,* U.S. Navy, U.S. Coast Guard);

(2) Vessel name and class; and

(3) Name of the PIC.

(b) The PIC must maintain complete records of the following information:

(1) Any inspection or recordkeeping requirement as specified in §§ 1700.14 through 1700.38;

(2) Any instance of an exception and the associated recordkeeping requirements as specified in § 1700.39; and

(3) Any instance of non-compliance with any of the performance standards as specified in §§ 1700.14 through 1700.38. The information recorded must include the following:

(i) Description of any non-compliance and its cause;

(ii) Date of non-compliance;

(iii) Period of non-compliance (time and duration);

(iv) Location of the vessel during non-compliance;

(v) Corrective action taken;

(vi) Steps taken or planned to reduce, eliminate, and prevent non-compliance in the future; and

(vii) If the non-compliance has not been corrected, an estimate of the time the non-compliance is expected to continue.

(c) All records prepared under this section must be maintained for a period of five years from the date they are created. The information in this paragraph will be available to the EPA, states, or the U.S. Coast Guard upon request. Any information made available upon request must be appropriately classified, as applicable, and handled in accordance with applicable legal requirements regarding national security.

§ 1700.42 Non-compliance reports.

The PIC must report any non-compliance, including the information as required under § 1700.41, to the Armed Service's designated office in writing and/or electronically within five days of the time the PIC becomes aware of the circumstances.