



18 December 2023

Submitted via: Faulk.jack@epa.gov

EPA Docket Center
Office of Water Docket,
Mail Code 28221T
Attn: Mr. Jack Faulk
1200 Pennsylvania Avenue
Washington, DC 20460

Re: 18 October 2023 Supplemental Notice of Proposed Rulemaking Environmental Protection Agency (Vol. 88, No. 200): *Vessel Incidental Discharge National Standards of Performance* [ID No. EPA-HQ-OW-2019-0482]; IADC COMMENTS TO EPA'S CONSULTATION REQUEST

Dear Mr. Faulk,

The International Association of Drilling Contractors is a trade association representing the interests of drilling contractors, onshore and offshore, operating worldwide. Our membership includes drilling, service, and supply contractors currently operating mobile offshore drilling units (MODUs) on the U.S. Outer Continental Shelf and around the world.

The Offshore Operators Committee is a U.S. based upstream trade association that represents over 90% of the organizations engaged in oil and gas production on the U.S. Gulf of Mexico (GoM) Outer Continental Shelf (OCS). Comprising member organizations that include oil and natural gas operators, wind energy companies, drilling contractors, and service providers, these upstream industry stakeholders lead a collective commitment to conducting offshore operations with utmost safety and steadfast focus on environmental protection.

The below comments are offered without prejudice to those that may also be addressed or submitted directly by IADC and/or OOC members.

By this joint letter, the OOC and IADC respectfully provide the comments herein such that the following content may inform EPA's continued development of this Supplemental Notice of Proposed Rulemaking.

Analysis of Data Since the Initial Proposed Rule and Resulting EPA Observations

IADC is pleased to note EPA's quite reasonable assessment of Ballast Water System performance and the challenges/limitations associated with applying testing protocols to discern system efficacy. As the EPA accurately acknowledges, *"vessels have different treatment needs due to the size of the vessel, type of operations, and environmental challenges in different waterbodies."* Consequently, a "one size fits all" methodology would prove thoroughly incongruent to an approach *"scientifically sound or grounded in the statutory consideration for the Clean Water Act."*

Best Management Practices for Ballast Water Uptake

Following on the above premise for recognizing the broad variety of maritime working environments, the EPA appropriately characterizes considerations *"beyond the control of the vessel operator during the uptake and discharge of ballast water."* Optimum Ballast Water System (BWS) operation will necessarily be dependent upon the way in which the system is operated in the myriad of marine environments and across the maritime regions encountered over the life of the system. Original Equipment Manufacturer (OEM) specifications currently instruct shipboard personnel on the procedures for maintaining, repairing, and operating the BWS such that its performance adheres to IMO-approved "fit for purpose" requirements. The EPA's reference to flexibility and the vessel operators' ability to adjust operations to minimize or avoid deleterious environmental impacts further underscores maritime operators' sensitive and nimble approach to ensuring a focused due diligence when working on U.S. waterways and the Outer Continental Shelf. While the EPA's consideration of this concern is understandable, operational efficiencies and cost optimization will provide the primary drivers for sustaining BWS operation within designed parameters. However, as the EPA considers the need to promulgate certain provisions to further encourage proper BWS operation, it should presume that vessel operators will necessarily focus their collective attention towards *"local authorities to identify area/situations of concern"* in the form of U.S. Coast Guard published Notice to Mariners (NTMs), Broadcast Notice to Mariners (BNTMs), Urgent Marine Information Broadcasts (UMIBs), and other EPA, NOAA, or NMFS policy guidance. Respective marine and offshore authorities will be compelled to prudently exercise their responsibilities so as to provide clarity and direction of operational/environmental conditions that will inform vessel operators for appropriate compliance.

Hulls and Associated Niche Areas

IADC recognizes and appreciates the EPA's intent to assert a more deliberate method by which to account for concerns associated with biofouling. Undertaking this initiative has the potential to substantially contribute to the mitigation of risk posed by Aquatic Nuisance Species (ANS) and other vessel-borne materials. However, the effectiveness with which biofouling management techniques may be fully realized and put into practice will be critically dependent

upon engagement of a broad variety of marine stakeholders. It is expected that over the two-year period subsequent to this SNPRM being finalized, that the Coast Guard will necessarily engage the relevant [Marine Transportation-Related Federal Advisory Committees](#) (FACAs) and other subject matter expert bodies as it progresses the development of regulations providing for the compliance and enforcement of VIDA National Standards of Performance.

Passive Biofouling Discharge

IADC further asserts that the EPA's continued consideration of the concept of *passive discharge of biofouling* is an unnecessary duplication of effort/intent. Vessel operators exercising the necessary due diligence as it relates to routine ship husbandry and associated vessel hull cleaning activities will result in the removal of marine growth materials. This material could simply be categorized as that generated and resulting from planned vessel maintenance; not requiring further distinction between "active" or "passive" designation. The fundamental purpose for engaging in intentional hull cleaning activities is to optimize a vessel's efficient operation along with facilitating proper stewardship of the marine environment. In doing so, a vessel operator is generally seeking to sustain efficient performance directly relating to underway operation. Other existing mandates currently compel vessel operators to adhere to vessel efficiency practices. As the IMO continues to develop provisions to address greenhouse gas (GHG) emissions from ships, particular focus has been directed towards Regulation 22A of Annex VI of the IMO's International Convention for the Prevention of Pollution from Ships (MARPOL). Energy efficiency work that the IMO has and continues to progress within the MARPOL Convention is predicated upon vessel hull cleanliness to maximize hydrodynamic performance and minimize hull drag coefficients that directly affect GHG emission from vessels. It may be clearly presumed that maintaining a vessel in a fit for purpose condition would necessarily satisfy biofouling concerns the EPA has heretofore recognized as "active" and "passive". Simply stated, proper vessel maintenance as routinely performed would entirely account for EPA concerns as expressed related to passive biofouling. In practice, should the EPA and/or Coast Guard witness unmitigated biofouling concerns for a vessel in underway operation, such conditions would be easily traced directly back to the vessel operator's inadequate maintenance procedures, or failure to follow said procedures.

Again, effective "passive" biofouling management as the EPA discusses in this SNPM, is directly contingent upon "active" hull maintenance plans that stipulate specific procedures and conditions under which hull cleaning activities may be conducted. Moreover, to recognize that passive discharge concerns are certainly accounted for as described herein, the EPA's effort to continue to communicate and clarify legal authorities as described on page 18 of this SNPRM will become moot. IADC sees the opportunity for the EPA to leverage existing U.S. and international instruments without the need for implementing a new definition for "passive" biofouling discharge concerns. As regulatory history hasn't yet drawn a distinction between active and passive discharges as per the VGP, vessel operators are exceedingly capable of addressing this concern in a manner as reflected in vessel hull maintenance plans as they currently exist in the maritime industry.

Upstream industry stakeholders are certainly intent to ensure that development of forthcoming requirements manifest a measured and value-added approach to realizing an effective vessel incidental discharge strategy.

The OOC and IADC appreciate the opportunity to continue to participate in this consultative process and looks forward to engaging with the cross-section of U.S. and foreign maritime interests such that the safety of operations and the environment may be optimized as this rulemaking intends.

As always, please feel free to contact us for further clarification or insight on the comments provided herein.

Sincerely,

A handwritten signature in blue ink that reads "Jim Rocco".

Jim Rocco
IADC Senior Director, Government &
Industry Affairs – Offshore

A handwritten signature in black ink that reads "Steve Hamm".

Steve Hamm
OOC Associate Director