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APPENDIX TO SUBPART D OF PART 151—BALLAST WATER REPORTING FORM AND INSTRUCTIONS FOR BALLAST WATER REPORTING FORM

33 CFR Ch. I (7–1–04 Edition)

Subpart A—Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as it Pertains to Pollution from Ships

GENERAL

AUTHORITY: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

SOURCE: CGD 75–124a, 48 FR 45709, Oct. 6, 1983, unless otherwise noted.

§ 151.01 Purpose.

The purpose of this subpart is to implement the Act to Prevent Pollution from Ships, 1980, as amended (33 U.S.C. 1901–1911) and Annexes I, II and V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London on February 17, 1978. This subpart also implements the Antarctic Science, Tourism, and Conservation Act of 1996, and the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991.

[CGD 88–002, 54 FR 18403, Apr. 28, 1989, as amended by CGD 88–002A, 55 FR 18582, May 2, 1990; CGD 97–015, 62 FR 18045, Apr. 14, 1997; USCG–2000–7641, 66 FR 55570, Nov. 2, 2001]

§ 151.03 Applicability.

This subpart applies to each ship that must comply with Annex I, II or V of MARPOL 73/78 unless otherwise indicated.

[CGD 88–002, 54 FR 18403, Apr. 28, 1989, as amended by CGD 88–002A, 55 FR 18582, May 2, 1990; CGD 97–015, 62 FR 18045, Apr. 14, 1997]

§ 151.04 Penalties for violation.

(a) A person who violates MARPOL 73/78, the Act, or the regulations of this subpart is liable for a civil penalty for each violation, as provided by 33 U.S.C. 1908(b)(1). Each day of a continuing violation constitutes a separate violation.

(b) A person who makes a false, fictitious statement or fraudulent representation in any matter in which a statement or representation is required to be made to the Coast Guard under

MARPOL 73/78, the Act, or the regulations of this subpart, is liable for a civil penalty for each statement or representation, as provided by 33 U.S.C. 1908(b)(2).

(c) A person who knowingly violates MARPOL 73/78, the Act, or the regulations of this subpart commits a class D felony, as described in 18 U.S.C. 3551 *et seq.* In the discretion of the Court, an amount equal to not more than one-half of the fine may be paid to the person giving information leading to conviction.

(d) A ship operated in violation of MARPOL 73/78, the Act, or the regulations of this subpart is liable *in rem* for any civil penalty covered by paragraph (a) or (b) of this section, or any fine covered by paragraph (c) of this section, and may be proceeded against in the United States District Court of any district in which the ship may be found.

[CGD 88-002, 54 FR 18403, Apr. 28, 1989, as amended by CGD 88-002A, 55 FR 18582, May 2, 1990; CGD 92-007, 57 FR 33261, July 27, 1992; CGD 96-052, 62 FR 16703, Apr. 8, 1997; USCG-1999-5832, 64 FR 34714, June 29, 1999]

§ 151.05 Definitions.

As used in this subpart—

Act means the Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901-1911).

Antarctica means the area south of 60 degrees south latitude.

Cargo associated wastes means all materials which have become wastes as a result of use on board a ship for cargo stowage and handling. Cargo associated wastes include, but are not limited to dunnage, shoring, pallets, lining and packing materials, plywood, paper, cardboard, wire, and steel strapping.

Clean ballast means the ballast in a tank which, since oil was last carried therein, has been so cleaned that effluent therefrom, if it were discharged from a ship that is stationary into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the government of the

country under whose authority the ship is operating, evidence based on such a system, to the effect that the oil content of the effluent does not exceed 15 parts per million (ppm) is determinative that the ballast is clean.

Commandant means Commandant, U.S. Coast Guard.

Discharge means any release, however caused, from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying. It does not include—

(1) Dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or

(2) Release of oil or oily mixtures directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

Discharge, as defined by MARPOL 73/78 in relation to harmful substances or effluent containing such substances, means any release however caused from a ship, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying. It does not include—

(1) Dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on November 13, 1972; or

(2) The release of harmful substances directly arising from the exploration, exploitation, and associated offshore processing of seabed mineral resources; or

(3) The release of harmful substances for purposes of legitimate scientific research relating to pollution abatement or control.

Dishwater means the liquid residue from the manual or automatic washing of dishes and cooking utensils which have been pre-cleaned to the extent that any food particles adhering to them would not normally interfere with the operation of automatic dishwashers.

Domestic wastes means all types of wastes generated in the living spaces on board a ship, except victual wastes.

Existing ship means a ship that is not a new ship.