



**American
Iron and Steel
Institute**

25 Massachusetts Avenue, NW
Suite 800
Washington, DC 20001
Phone 202.452.7118
Fax 202.452.1039
Email kdempsey@steel.org

www.steel.org

Kevin M. Dempsey
Interim President and
Chief Executive Officer

November 25, 2020

SUBMITTED VIA REGULATIONS.GOV

Mr. Jack Faulk and Mrs. Katherine Weiler
Oceans and Coastal Management Branch (4504T)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Comments on Vessel Incidental Discharge National Standards of Performance
40 CFR Part 139
[EPA-HQ-OW-2019-0482; FRL-10015-54-OW]
RIN 2040-AF92

Dear Mr. Faulk and Ms. Weiler:

The American Iron and Steel Institute (AISI) is pleased to submit the following comments to the Environmental Protection Agency (EPA) on the proposed Vessel Incidental Discharge National Standards of Performance [EPA-HQ-OW-2019-0482; FRL-10015-54-OW] (October 26, 2020).

AISI serves as the voice of the American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI's membership is comprised of integrated and electric arc furnace steelmakers, and associate members who are suppliers to or customers of the steel industry. The American steel industry supports nearly two million jobs and contributes \$520 billion to the economy. The industry is essential to our national security and critical infrastructure and is among the most energy-efficient in the world.

AISI and its member companies have long been active in policy matters regarding vessel incidental discharge systems because of their impact on the operations of U.S. commercial vessels operating exclusively within the Great Lakes (known as "lakers"). Lakers are the essential link to supplying iron ore pellets from Minnesota and Michigan mines to steel mills across the upper Midwest. The economically efficient transportation of domestically produced iron ore pellets by U.S. lakers to Great Lakes

steelmaking operations drives the steel and automobile manufacturing and construction industries, and therefore the economy, of the United States.

In 2018, AISI was pleased to provide input to Congress, and ultimately support, the bipartisan legislation to authorize the Coast Guard to establish a framework to enforce an EPA-led standard setting initiative for national ballast water discharge rules. This compromise legislation struck the right balance between protecting the environment of the Great Lakes and fostering the successful operations of the U.S. commercial vessels operating exclusively within the Great Lakes that are essential to the success of the American steel industry.

In particular, AISI supports the proposed rule's exemption of lakers from the general requirement that vessels meet a numeric ballast water discharge standard (BWDS) or install a ballast water management system (BWMS).¹ While U.S. lakers are exempted by EPA from having to treat their ballast water (which comes from, and is discharged into, the Great Lakes, unlike seaborne vessels that risk bringing non-native species from outside the Great Lakes system), they are already subject to comprehensive U.S. Coast Guard and EPA ballast water best management practices. It is important to note that since the 2006 imposition of regulations requiring seaborne vessels to exchange or flush ballast water (and exempting lakers from such an exchange or treatment), no new invasive species have been discovered in the Great Lakes ecosystem as a result of ballast water. As the Saint Lawrence Seaway Development Corporation's 2019 Annual Report notes, this is "the longest such period of non-detection on record." A previous estimate set the cost of installing BWMS on the U.S. laker fleet at approximately \$650 million, and annual maintenance costs exceeding \$10 million. These costs would undoubtedly be passed on to primary customers, such as the iron ore and steel producing members of AISI, further burdening the Great Lakes iron ore and steel industries without providing any additional environmental benefit.

AISI additionally believes that the BWMS exemption for lakers should be reviewed on a five-year cycle. An annual review is basically a never-ending rulemaking and is excessively burdensome on the vessels, their customers, and the regulatory agencies. The five-year cycle is also consistent with the VGP and NPDES permits. It is more consistent with the cycle for vessel drydocks, load line certificates and the Minnesota Pollution Control Agency's 2018 State Disposal System Vessel Discharge Permit. The longer timeframe also would give the treatment technology more time to develop, which will make the review more meaningful.

¹ See Vessel Incidental Discharge National Standards of Performance, 85 Fed. Reg. 67818, 67845-67853, (Oct. 26, 2020).

The regulations should also be amended to reflect the language in the Vessel Incidental Discharge Act (VIDA) requiring eight Great Lakes Governors to approve additional equipment requirements for vessels under the incidental discharge performance standards for the Great Lakes². Under section 312 of the Clean Water Act, in order for the EPA to change its regulations to require the installation of equipment on Great Lakes vessels, all eight Great Lakes Governors must endorse the proposed change in writing. This same requirement should be set forth in the regulations. In addition, the EPA could consider modifying the regulations for best management practices only if five of the eight Great Lakes Governors support the application, as allowed by VIDA.

Thank you for the opportunity to provide the input of the American Iron and Steel Institute on this proposed regulation. We look forward to continuing to work with the Agency as the regulation is finalized and implemented.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Dempsey". The signature is written in a cursive, flowing style.

Kevin M. Dempsey
Interim President and CEO

² See 33 U.S. Code § 1322(p)(10)(B)(ii)(III)(bb).