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MARITIME ADMINISTRATOR

Marine Guideline

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TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF MERCHANT SHIPS, AND RECOGNIZED ORGANIZATIONS

SUBJECT: Ballast Water Management

- References:**
- (a) [BWM/CONF/36](#), *International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004*, adopted 16 February 2004
 - (b) **IMO Assembly Resolution [A.868\(20\)](#)**, *Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens*, adopted 28 November 1997
 - (c) **IMO Assembly Resolution [A.1088\(28\)](#)**, *Application of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004*, adopted 04 December 2013
 - (d) **IMO Resolution [MEPC.173\(58\)](#)**, *Guidelines for Ballast Water Sampling (G2)*, adopted 10 October 2008
 - (e) **IMO Resolution, [MEPC.123\(53\)](#)**, *Guidelines for ballast water management equivalent compliance (G3)*, *IMO Resolution MEPC. 123(53)*, adopted 22 July 2005
 - (f) **IMO Resolution [MEPC.127\(53\)](#)**, *Guidelines for ballast water management and development of ballast water management plans (G4)*, adopted 22 July 2005
 - (g) **IMO Resolution [MEPC.163\(56\)](#)**, *Guidelines for ballast water exchange in the Antarctic treaty area*, adopted 13 July 2007
 - (h) **IMO Resolution [MEPC.209\(63\)](#)**, *2012 Guidelines on design and construction to facilitate sediment control on ships (G12)*, adopted 02 March 2012
 - (i) **IMO Resolution [MEPC.124\(53\)](#)**, *Guidelines for Ballast Water Exchange (G6)*, adopted 22 July 2005
 - (j) **IMO Resolution [MEPC.162\(56\)](#)**, *Guidelines for risk assessment under regulation A-4 of the BWM convention (G7)*, adopted 13 July 2007
 - (k) **IMO Resolution [MEPC.279\(70\)](#)**, [Revised] *Guidelines for approval of Ballast Water Management Systems (G8)*, adopted 28 October 2016; **IMO Resolution [MEPC.169\(57\)](#)**, *Procedure for approval of ballast water management systems that make use of active substances (G9)*, adopted 04 April 2008
 - (l) **IMO Circular [MSC/Circ.1145](#)**, *Precautionary advice to Masters when undertaking ballast water exchange operations*, issued 13 December 2004

- (m) **IMO Circular [BWM.2/Circ.52](#)**, *Guidance on entry or re-entry of ships into exclusive operation within waters under the jurisdiction of a single Party*, issued 15 April 2004

PURPOSE

The Republic of the Marshall Islands (RMI) Maritime Administrator (the “Administrator”) has developed this document to provide guidance for complying with the requirements for ballast water management (BWM), prior to the entry into force of the International Convention for the Control and Management of Ships’ Ballast Water & Sediments (“BWM Convention” or “Convention”). It is intended to bridge the gap between RMI Marine Notice [2-014-1](#) which was promulgated in 2009 and recent decisions taken on the subject by the International Maritime Organization (IMO). It also provides an update to the United States (U.S.) ballast water management requirements and addresses coastal State initiatives in general. It should be noted that a new Marine Notice to supersede Marine Notice 2-014-1 cannot be promulgated by the Administrator until such time as final decisions are taken at the IMO. See also [RMI Technical Circular 25](#), *Ballast Water Management (BWM) Convention*.

BACKGROUND

The BWM Convention was adopted by consensus at the IMO on 16 February 2004 and reached its ratification threshold of 30 States representing 35% of the world gross tonnage on 08 September 2016. The RMI acceded to the BWM Convention on 06 November 2009. This means that all RMI ships subject to the Convention will be required to comply with various elements of the Convention beginning **08 September 2017**, as described in this Guideline.

Notwithstanding, as a result of concern on the part of IMO Member States, including the RMI, and industry on the robustness of the guidelines for approving ballast water management systems (G8) and the ability of ships to comply with the implementation schedule (Regulation B-3) for installing a ballast water treatment system, there have been extensive discussions at IMO, including at the recent 70th meeting of the Marine Environment Protection Committee (MEPC 70) (24-28 October 2016), which have resulted in proposed amendments to the guidelines and implementation schedule. To complicate matters, the U.S., which is not a party to the BWM Convention, has its own regulatory regime in place with regards to BWM. As of this writing, the United States Coast Guard (USCG) has type approved three (3) ballast water treatment systems. The outcome of the MEPC 70 deliberations and updated USCG Ballast Water Management System (BWMS) requirements are included, as appropriate, in the text of this Guideline, below.

DEFINITIONS

“Ballast Water” means water with its suspended matter taken on board a ship to control trim, list draught, stability, and/or stresses of that ship.

“Pleasure craft” means a private yacht as defined in §1.03.13 of the RMI Maritime Regulations ([MI-108](#)).

“Sediments” means matter settled out of Ballast Water within a ship.

APPLICABILITY

This BWM Convention applies to all RMI-flagged vessels, except those, in accordance with BWM Convention Article 3 that:

- are not designed or constructed to carry ballast water;
- only operate in RMI waters;
- only operate in waters under the jurisdiction of another Party, subject to the authorization of that Party of such exclusion (see IMO Circular [BWM.2/Circ.52](#));
- only operate under the jurisdiction of one Party and on the high seas;
- carry permanent ballast water in sealed tanks that is not subject to discharge; or
- that have been granted an exemption in accordance with Regulation A-4.

Exemptions granted in accordance with Regulation A-4 will take into consideration IMO Resolution [MEPC.162\(56\)](#), *Guidelines for risk assessment under regulation A-4 of the BWM convention (G7)*. See BWM.2/Circ52 for the application of Convention Articles 3.2(b) and 3.2(d).

Equivalent compliance for pleasure craft used solely for recreation or competition or craft used primarily for search and rescue, less than 50 meters in length, and with a maximum ballast water capacity of eight (8) cubic meters shall be determined by the Administrator, taking into account IMO Resolution [MEPC.123\(53\)](#), *Guidelines for Ballast Water Management Equivalent Compliance (G3)*. See also RMI Yacht Code (MI-103) for the application of the BWM requirements to yachts.

GUIDANCE

1.0 Ballast Water Management Plan (BWMP or “Plan”) - Regulation B-1

- 1.1 In accordance with RMI Marine Notice [2-014-1](#), each ship must have on board and implemented a ship-specific BWMP. Such a Plan must be approved by the Recognized Organization (RO) of the vessel. The BWMP should take into account IMO Resolution [MEPC.127\(53\)](#), *Guidelines for ballast water management and development of ballast water management plans (G4)*.¹
- 1.2 When developing their BWMP, ships operating in Antarctic waters need to take into account the problems of ballast water exchange (BWE) in cold environments and in Antarctic conditions. Thus, IMO Resolution [MEPC.163\(56\)](#), *Guidelines for ballast water exchange in the Antarctic treaty area*, needs to be considered in development of the BWMP.

¹ Note: IMO Assembly Resolution [A.868\(20\)](#), *Guidelines for the Control and Management of Ships’ Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens*, has not been revoked by IMO Resolution [MEPC 127\(53\)](#). MEPC 63 agreed that while the Guidelines adopted after 2004 for the uniform implementation of the BWM Convention have effectively superseded the Guidelines adopted by IMO Assembly Resolution A.868(20), for practical reasons, the Ballast Water Management Plans, approved in accordance with IMO Assembly Resolution A.868(20), should remain valid until they require revision due to the installation of a ballast water management system.

2.0 Ballast Water Management for Ships - Regulation B-3

2.1 Each ship will be required to employ one (1) of the following BWM practices in accordance with the Convention implementation schedule:

.1 BWE to standard D-1

Ship-specific procedures for conducting BWE, are to take into consideration IMO Resolution [MEPC.124\(53\)](#), *Guidelines for Ballast Water Exchange (G6)* and IMO Circular [MSC/Circ.1145](#), *Precautionary Advice to Masters When Undertaking Ballast Water Exchange Operations*;

.2 BWMS to standard D-2 IMO

See Assembly Resolution [A.1088\(28\)](#), *Application of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004*. Final action on the implementation schedule for standard D-2 is pending per §2.2 below;

.3 Discharge ballast water to a reception facility designed in accordance with the Guidelines developed by the IMO for such facilities; or

.4 Other methods of ballast water management that may be accepted as alternatives and that provide the same level of protection to the environment, human health, property, or resources and are approved in principle by the MEPC.

2.2 MEPC 69 approved [draft amendments](#) to Regulation B-3 of the BWM Convention, and an associated [draft MEPC resolution](#) on determining of the date for treatment of ballast water to the D-2 standard referred to in Regulation B-3. The draft amendments reflect the objectives of IMO Assembly Resolution A. 1088 (28), *Application of the International Convention for the Control and Management of Ships' Ballast Water and Sediments*, which was adopted 04 December 2013, to adjust the B-3 implementation schedule upon entry into force of the Convention. During extensive discussion at MEPC 70, the majority of delegations expressed the view that these amendments needed further revisions. As a result of the discussions, MEPC 70 decided to:

- maintain the decision of MEPC 69 on the [approved amendments to regulation B-3, as corrected](#), for circulation upon entry into force of the BWM Convention;
- include [draft alternate amendments](#) to regulation B-3 and an associated draft MEPC resolution, developed by delegations who supported further amendments to regulation B-3 as reflected in the annex to MEPC 70/WP.1 (“MEPC 70 Alternative”); and
- revisit the issue at MEPC 71 with a view to making a final decision (between the two (2) sets of draft amendments) before the date for circulation (08 September 2017) of the draft amendments to regulation B-3.

2.2.1 Thus, the two (2) proposals on which MEPC 71 is intended to make a final decision with regard to the B-3 implementation schedule are summarized below:

MEPC 69 (IMO Resolution A.1088(28))		MEPC 70 Alternative	
Ships Constructed prior to 08 September 2017	Ships Constructed on or after 08 September 2017	Ships Constructed prior to 08 September 2019	Ships Constructed on or after 08 September 2019
By the first International Oil Pollution Prevention (IOPP) renewal survey after 08 September 2017	At Delivery	By the first IOPP renewal survey following the date of entry into force of the Convention if the survey is completed on or after 08 September 2019; or	At Delivery
		By the second IOPP renewal survey following the date of entry into force of the Convention if the first renewal survey following the date of entry into force of the Convention is completed prior to 08 September 2019	

2.3 IOPP Renewal Survey

2.3.1 While the Administrator does not ordinarily recommend the decoupling of statutory certificates, it is understood that this possibility may be an option for a ship’s operator in implementing the requirements of the BWM Convention.

2.3.2 International Convention for the Prevention of Pollution from Ships (MARPOL) regulations allow the renewal survey of any certificate to be brought forward:

.1 MARPOL I/10.2.3

When the renewal survey is completed more than 3 months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of completion of the renewal survey.

.2 MARPOL I/10.7

In special circumstances, as determined by the Administration, a new certificate need not be dated from the date of expiry of the existing certificate as required by paragraphs 2.2, 5 or 6 of this regulation. In these special circumstances, the new certificate shall be valid to a date not exceeding 5 years from the date of completion of the renewal survey.

2.3.3 As a result, the Administrator allows of early renewal and decoupling of the IOPP renewal survey from other statutory surveys and certifications covered in IMO Assembly Resolution [A. 883\(21\)](#). No special authorization from the Administrator is required to carry out an early IOPP renewal survey, or to issue the new certificate.

2.3.4 The Administrator recommends that the IOPP renewal survey is recoupled with the other statutory surveys as soon as is appropriate.

2.4 Control of Sediments

Regulation B-5.1 of the Convention requires that all ships remove and dispose of sediments from spaces designated to carry ballast water in accordance with the BWMP. Ballast water tanks and their internal structure should be designed to avoid the accumulation of sediment in a ballast tank, taking into consideration IMO Resolution [MEPC.209\(63\)](#), *2012 Guidelines on design and construction to facilitate sediment control on ships (G12)*.

3.0 BWMSs

3.1 Upon entry into force of the BWM Convention, standards in Regulation D-2 are to be met in accordance with the implementation schedule ultimately adopted by MEPC as explained in §2.2, above.

3.2 When choosing a BWMS to install, Convention guidelines G8 and G9 are to be taken into consideration. It should be noted that MEPC 70 agreed to revised G8 Guidelines (IMO Resolution MEPC.279(70)) and to make them mandatory². The revised G8 guidelines supersede those contained in IMO Resolution [MEPC.174\(58\)](#). The Administrator strongly advises that any BWMS considered for installation by RMI shipowners or operators meet the guidance contained in IMO Resolution MEPC. 270(70).

3.3 The only BWMS currently approved by the Administrator is the VOS-2500, manufactured by NEI Treatment Systems, LLC. However, the Administrator has accepted installation of BWMS on RMI-flagged vessels that have been approved by other administrations.

3.4 Regardless of the type of system or approving authority, the Type Approval Certificate must be carried on board at all times and be available for inspection. A reference to the test protocol and a copy of the test results must be available for inspection on board the vessel.

2 The mandatory status of the G8 guidelines will be reflected in draft amendments to regulation D-3 of the BWM Convention, which will be circulated upon entry into force of the Convention. The reason for this is that the Convention cannot be amended until it enters into force. Current plans are to reissue the G8 Guidelines as a mandatory Code which, together with the necessary amendments to regulation D-3 of the BWM Convention, will not be formally adopted until MEPC 72, scheduled for the spring of 2018, at the earliest.

4.0 Training and Education

- 4.1 Training and familiarization of the vessel's crew by the owner or operator is essential in the management of ballast water and sediments. Officers and crew must be familiar with their duties in the implementation of BWM particular to the ship on which they serve, and be instructed in the requirements of:
- .1 the BWM Convention;
 - .2 the implementation of the BWMP;
 - .3 ballast water exchange procedures, sediment management procedures; and
 - .4 the Ballast Water Record Book (BWRB), and reporting functions.
- 4.2 Owners and operators of ships equipped with a BWMS need to ensure the crew is provided with training for BWMS operations and maintenance, including means to verify that treated ballast meets all applicable requirements (i.e., Convention, port and coastal State, regional and local). See also §8.2, below.
- 4.3 Training records are to be maintained with the BWMP.

5.0 BWRB - Regulation B-2

- 5.1 The BWM Convention requires each ship to maintain, onboard, a BWRB to record each ballast water operation, including discharges at sea, to reception facilities, and cases of accidental or exceptional discharges.
- 5.2 The BWRB, which may be electronic, is to at least contain the information specified in [Appendix II](#) of the BWM Convention.
- 5.3 The BWRB entries are to be maintained on board the ship for a minimum of two (2) years after the last entry has been made and thereafter in the Company's control for an additional minimum period of three (3) years.

6.0 International Ballast Water Management (IBWM) Certificate

- 6.1 Vessels successfully completing a survey in accordance with Regulation E-1 shall be issued an IBWMC per Regulation E-2.
- .1 Vessels of 400 gross tonnage and above to which the BWM Convention applies, excluding floating platforms, floating storage units (FSUs), and floating production storage and offloading units (FPSOs), are subject to the surveys specified in Convention Regulation E-1.

- .2 Regulation E-1, paragraph 2 requires the Administrator to establish appropriate measures for ships that are not mandatorily subject to the survey and certification provisions of Regulation E-1, paragraph 1. The Administrator has determined that:
- a. vessels of less than 400 gross tonnage (e.g., pleasure craft and offshore support vessels) must undergo survey and certification in accordance with Regulation E-1 paragraph 2 because such vessels are not excluded from the Convention's definition of ships; and
 - b. floating platforms, FSUs and FPSOs must undergo survey and certification in accordance with Regulation E-1 paragraph 2 because these vessels are included within the Convention's definition of ship.
- 6.2 Given §6.1.1 and §6.1.2 above, this means that all ships will require an IBWM Certificate, unless they are covered by the exclusions, exemptions, exceptions, or equivalencies set out respectively in Article 3 – *Application* (paragraph 2), Regulation A-3 - *Exceptions* (paragraph 4 and 5), Regulation A-4 – *Exemptions* and Regulation A-5 - *Equivalent compliance*.
- 6.3 Some ships, such as Mobile Offshore Units (MOUs), including Mobile Offshore Drilling Units (MODUs), may not need ongoing certification because they operate in a single location. IMO Circular [BWM.2/Circ.52](#), *Guidance on entry or re-entry of ships into exclusive operation within waters under the jurisdiction of a single Party*, should be applied in re/positioning and dry-docking voyages of these ship types.

7.0 Coastal State Requirements

- 7.1 A number of coastal States impose unique requirements for BWM. All RMI-flagged vessels that enter the jurisdiction of these States are required to comply with these requirements, including any additional regional or local mandates within such coastal States.
- 7.2 The Administrator does not normally cover the requirements of other States. However, due to the significant number of RMI-flagged vessels that trade to the U.S. and the fact that the U.S. has not ratified the BWM Convention, but has in place a strict regime that is not in complete accord with the international requirements, the U.S. ballast water requirements are provided in Appendix A of this Guideline. Compliance with the U.S. requirements, which are currently in force, is required by all RMI ships subject to them.
- 7.3 Where a coastal or port State authority requests or requires that specific ballast water procedures and or treatment option(s) be undertaken and, due to weather, sea conditions, or operational impracticability, such action cannot be taken, the Master is to report this fact to the coastal State authority as soon as possible and, where appropriate, prior to entering seas under the jurisdiction of said coastal State.

8.0 Port State Control (PSC)

8.1 After entry into force of the BWM Convention, RMI vessels may be inspected in any port or offshore terminal of another Party to the BWM Convention in accordance with Article 9 of the Convention, taking into consideration IMO Resolution [MEPC.252\(67\)](#), *Guidelines for Port State Control Under the BWM Convention*, which establishes a four (4)-stage inspection procedure:

Stage one: initial inspection to focus on documentation and nominated, trained ship's officer for ballast water management on board the ship;

Stage two: more detailed inspection - an operational check of the BWMS;

Stage three: sampling by indicative analysis to determine if the D-2 standard is being met; and

Stage four: detailed analysis, if necessary, to verify compliance with the D-2 standard.

Importantly, a sampling of the ship's ballast water by PSC is to be carried out in accordance with IMO Resolution [MEPC.173\(58\)](#), *Guidelines for Ballast Water Sampling (G2)*.

8.2 IMO has implemented a Trial Period for Sampling and Analysis of 2 to 3 years during which ships will not be penalized for exceedance of the D-2 standard provided that:

- .1 the BWMS is approved in accordance with regulation D-3;
- .2 the BWMS has been installed correctly and maintained in accordance with the manufacturer's instructions;
- .3 the approved BWMP has been followed, including the operational instructions and the manufacturer's specifications for the BWMS; and
- .4 The self-monitoring system of the BWMS indicates that the treatment process is working properly.

8.3 IMO has also agreed to an Experience Building Phase conducted in parallel with the Trial Period to collect and analyze data on BWMS fitness and determine if additional amendments to the Convention are needed. This Experience Building Phase will also include the non-penalization provision and may increase the length of the Trial Period beyond three (3) years.

8.4 Ship operators, Masters, and crew members are to be knowledgeable of the content of the guidelines so that the inspection process is understood, including what is to be inspected; how samples are to be taken, their proper maintenance, storage, labeling, and transportation; and the sampling chain of custody record. Additional guidance and general recommendations on methodologies and approaches to sampling and analysis are provided in [BWM.2/Circ.42/Rev.1](#), *Guidance on Ballast Water Sampling and Analysis for Trial use in Accordance with the BWM Convention and Guidelines (G2)*.

APPENDIX A: U.S. REQUIREMENTS

1.0 Background

- 1.1 The U.S. is not a Party to the BWM Convention, but requires mandatory BWM practices for all vessels equipped with ballast water tanks bound for ports or places within the U.S. or entering U.S. waters from outside its exclusive economic zone (EEZ) and discharging ballast within three (3) nautical miles (nm) or 12 nm of the U.S. coast, depending on the enforcement agency as noted further in this section. The U.S. requirements are currently in force.
- 1.2 Ballast water discharge controls in the U.S. are implemented under two (2) separate statutory and regulatory regimes administered independently by the U.S. Coast Guard (USCG) and U.S. Environmental Protection Agency (EPA). The USCG published its final rule on *Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters* in the Federal Register on 23 March 2012 (77 FR 17254). See §2.0 and §3.0 below for more detail. The EPA regulates discharges incidental to the normal operations of a vessel under 33 CFR 1342, as provided in the [Final 2013 Vessel General Permit \(VGP\)](#):
- 1.3 The USCG and the EPA requirements include the same implementation schedule for installation of U.S. type approved BWMSs. Both the USCG and EPA have adopted the Convention D-2 treatment standard. A major difference between the U.S. Environmental Technology Verification (ETV) methodology and the IMO G8 guideline is that the ETV measures numbers of living organisms whereas the Convention G8 guidelines measures viable organisms which has been defined to mean living organisms and organisms that have the ability to successfully generate new individuals in order reproduce the species.
- 1.4 Importantly, many individual states within the U.S. have implemented their own BWM requirements either through state regulations or through the Water Act (Section 401 Certification) as there is no federal preemption of state law with respect to vessel discharges. The state requirements often differ or are in addition to those of the U.S. federal government. California and New York are considered to have the most stringent state requirements.

2.0 Federal Requirements - USCG

2.1 Applicability

- 2.1.1 The U.S. Code of Federal Regulations at 33 CFR §151.2000-§151.2080 (Subpart D) governs BWM for control of nonindigenous species in U.S. waters. In accordance with §151.2010, the ballast water requirements apply, with certain limited exceptions, to: “all non-recreational vessels, U.S. and foreign, that are equipped with ballast tanks and operate in the waters of the United States.”
- 2.1.2 Vessels operating in the Great Lakes and Hudson River are subject to Subpart C requirements at 33 CFR §151.1500-§151.1518.

2.2 BWMP

2.2.1 Owners and Masters engaged in trade within the waters of the U.S. must implement BWMPs and means to prevent the introduction of unwanted aquatic organisms and pathogens. Ships operating in U.S. waters must comply with U.S. requirements, including using one (1) of the BWM practices described in 33 CFR Parts 151.2025 and 2050.

2.2.2 Each vessel subject to this rule is required to develop and maintain an approved BWMP, and employ at least one (1) of the following BWM practices:

- .1 prior to discharging ballast water in U.S. navigable waters and within 12 nm of the coast, perform complete BWE in an area no less than 200 nm from any shore unless required to install a BWMS;
- .2 retain ballast water onboard the vessel;
- .3 install and operate a BWMS in accordance with the schedule in Table 151.1512 (b) or Table 151.2035(b) that has been type approved by the USCG under 46 CFR part 162;
- .4 use only water from a U.S. public water system (PWS) as defined in 40 CFR 141.2 that meets the requirements of 40 CFR parts 141 and 143 as ballast water;
- .5 employ an Alternate Management System (AMS) for up to five (5) years from the basic compliance date noted in §2.2.2.3 above or from the extended compliance date described in §2.5 below; or
- .6 discharge to a facility on shore or another vessel for the purpose of treatment.

2.2.3 If a ship is engaged in trade which takes it into the territorial waters of the U.S., the BWMP must be specific to each ship and address the following additional U.S. requirements:

- .1 detailed biofouling maintenance procedures and procedures for the disposal of sediments at sea and to shore; and
- .2 procedures for coordinating the shipboard BWM strategy with USCG authorities.

2.3 BWMS

2.3.1 As of this writing, the USCG has type approved three (3) BWMSs. Shipowners should review the details and limitations of the systems and determine whether they are suitable for use by their vessels. USCG type approval will not affect vessels employing an AMS or with an existing compliance date extension. See §2.4 and §2.5 for details.

2.3.2 If a vessel is not required to have a USCG type approved BWMS, the USCG will allow the Master, owner, operator, agent, or person in charge of a vessel that cannot practicably meet

the BWE requirements of 33 CFR subpart D, either because its voyage does not take it into waters 200 nm or greater from any shore for a sufficient length of time and the vessel retains ballast water onboard or because the Master of the vessel has identified safety or stability concerns, to discharge ballast water in areas other than the Great Lakes and the Hudson River north of the George Washington Bridge.

- 2.3.3 For a vessel that is bound for the Great Lakes or Hudson River north of the George Washington Bridge and uses BWE to meet the requirements of 33 CFR 151, subpart C and, due to weather, equipment failure, or other extraordinary conditions, is unable to effect a BWE before entering the U.S. EEZ, and intends to discharge ballast water into the waters of the U.S., must request permission from the Captain of the Port (COTP) to exchange the vessel's ballast water within an area agreed to by the COTP at the time of the request then discharge the vessel's ballast water within that designated area. Only the amount of ballast water operationally necessary for safety concerns may be discharged, followed by an entry in the ballast water records supporting the reasons why the vessel could not comply with the regulatory requirements.

2.4 AMS

- 2.4.1 Where foreign administrations have approved a BWMS under the BWM Convention, the manufacturer of that system may request the USCG to make a determination that the BWMS is an AMS.
- 2.4.2 AMS is viewed by the USCG as an alternative to BWE and as a temporary acceptance of a treatment system already type approved with the BWM Convention. Therefore, although a BWMS may have received type approval certification by other nations based on results from testing to the IMO G8 Guidelines, the BWMS must still gain U.S. type approval either by an equivalency determination or by additional testing under the U.S. EPA ETV protocols to be employed more than five (5) years beyond the basic or extended USCG compliance schedule date.
- 2.4.3 As provided in 33 CFR 151.2026 and [OES-MSIB 010/16, Rev. 1](#):
- .1 AMS must be installed on the vessel prior to the date that the vessel is required to comply with the Ballast Water Discharge Standard (BWDS).
 - .2 The AMS may not be employed for longer than five (5) years from the date the vessel would otherwise be required to comply with the BWDS.
 - .3 An AMS determination may be suspended, withdrawn, or terminated (see 46 CFR §162.060-18).
 - .4 Once BWMS are type approved by the USCG and available for a given class, type of vessel, or specific vessel, those vessels will no longer be able to install AMS in lieu of type approved systems.
- 2.4.4 Vessels that choose to install a foreign type-approved BWMS which the USCG has accepted as an AMS may apply for an extension as explained in §2.5, below.

2.5 Extension of Compliance Date

- 2.5.1 In accordance with [CG-OES Policy Letter No. 13-01, Revision 2](#), 16 November 2015, the USCG may grant an extension to a vessel's original compliance date for approved BWM methods under the implementation schedule listed in 33 CFR 151.1512(b) or 33 CFR 151.2035(b). Extension requests are made electronically through email. Detailed guidance on extension applications can be found at <https://homeport.uscg.mil>. Click on Environmental, then click on Ballast Water Management Program.
- .1 Vessels that intend to retain ballast water on board when operating in U.S. waters, or intend to discharge ballast water to a facility onshore or to another vessel for purposes of treatment need not apply for an extension.
- 2.5.2 An extension may be issued only in cases where the Master, owner, operator, agent, or person in charge of a vessel can document that, despite all efforts, compliance with the requirement under 33 CFR 151.1510 or 33 CFR 151.2025 is not possible.
- 2.5.3 The USCG will grant extensions to a vessel's compliance date where the ship owner or ship operator can document that despite all efforts, compliance with the requirements is still not possible. This remains the procedure even with the recent BWMS type approvals by the USCG. Determinations for extensions will be made on a case-by-case basis. Extensions will still be granted if shipowners can show that USCG type approved systems are not suitable for their vessel or there is limited or no availability of the type approved system or shipyard for installation. See USCG Marine Safety Information Bulletin (MSIB) [OES-MSIB 14-16](#) for details. Existing extensions and current use of an AMS are not affected by this type approval.
- 2.5.4 The USCG will grant an extension or supplemental extension for no longer than the minimum time needed, as determined by the USCG, for the vessel to comply with the requirements in 33 CFR Subparts C or D. Requests for extensions should be made no later than 12 months before the scheduled implementation date (See 33 CFR §151.2036), taking into consideration that the USCG regards "original compliance date" as the implementation schedule listed in 33 CFR 151.1512(b) or 33 CFR 151.2035(b).

2.6 Reporting and Recordkeeping Requirements

- 2.6.1 The USCG requires vessels subject to the ballast water requirements, unless operating exclusively on voyages between ports or places within a single COTP Zone, to submit a ballast water report (33 CFR 151.2060) to the National Ballast Water Information Clearinghouse (NBIC) format using methods specified at [NBIC's](#) Web site at <http://invasions.si.edu/nbic/submit.html>.
- .1 Any vessel that is equipped with ballast tanks and bound for any other ports and places in the U.S. must submit the BW report, *U.S. Ballast Water Reporting Form* (33 CFR 151.2060), no later than six (6) hours after arrival at the port or place of destination, or prior to departure from that port or place of destination, whichever is earlier. An amended report is to be submitted before the vessel departs the waters of the U.S. or not later than 24 hours after departure from the port or place, whichever is earlier.

- .2 Any vessel bound for the Great Lakes from outside the EEZ must submit a BW report, *U.S. Great Lakes Ballast Water Reporting Form (33 CFR 151.2060)*, at least 24 hours before the vessel arrives in Montreal, Quebec. Non-U.S. and non-Canadian flagged vessels may complete the St. Lawrence Seaway Ballast Water Reporting Form and submit it in accordance with the applicable Seaway notice as an alternative.
 - .3 Any vessel bound for the Hudson River north of the George Washington Bridge entering from outside the EEZ must submit the BW report, by fax, to USCG COTP, New York at 718-354-4249 at least 24 hours before the vessel enters New York, NY.
- 2.6.2 In accordance with 33 CFR § 151.2070, the Master, owner, operator agent, or person in charge of a vessel bound for a port or place in the U.S. is required to ensure the maintenance of written or digital records that include the information required to be reported by 33 CFR § 151.2060 and required sediment information.

2.7 USCG Contacts and Information

- 2.7.1 The following links and email addresses should be used to contact the USCG directly for additional information about their ballast water program or with questions:
- .1 **General Information:** USCG Internet portal: <http://homport.uscg.mil/ballastwater>.
 - .2 **Compliance Questions:** E-mail the Office of Commercial Vessel Compliance: CGCVC@uscg.mil.
 - .3 **Extensions:** environmental_standards@uscg.mil.
 - .4 **NBIC:** website: <http://invasions.si.edu/nbic>.
 - .5 **Approved Labs and BWMS:** Coast Guard Maritime Information Exchange (CGMIX) <http://cgmix.uscg.mil>.

3.0 Federal Requirements – EPA

3.1 General

- 3.1.1 Section 402 of the Clean Water Act ((CWA), 33 U.S.C. § 1251 et. seq.) establishes the National Pollution Discharge Elimination System (NPDES) permitting program by which the EPA regulates discharges incidental to the normal operation of a vessel. These “incidental discharges” include a broad range of discharges such as ballast water, bilgewater, graywater, and deck washdown and runoff.
- 3.1.2 The incidental discharges are controlled primarily through two (2) NPDES general permits:
- .1 the [Final 2013 VGP](#): applicable to commercial vessels greater than 79 feet in length with a capacity to hold or discharge more than 8 cubic meters (2113 gallons) of ballast water operating on the navigable waters of the United States up to 3 nm off the coast. The 2013 Final VGP is effective for a period of five years from 19 December 2013 to 18 December 2018. (See [CG-543 Policy letter 11-01](#)).); and

.2 the [Small Vessel General Permit \(sVGP\)](#): applicable to commercial fishing vessels and other non-recreational vessels less than 79 feet.

3.1.3 EPA, as a co-regulator of ballast water discharges with the USCG, has articulated its enforcement policy in a memorandum dated 27 December 2013 and entitled *Enforcement Response Policy for EPA's 2013 Vessel General Permit: Ballast Water Discharges and U.S. Coast Guard Extensions under 33 C.F.R. Part 151*. This policy reflects the fact that under the Clean Water Act, EPA cannot recognize as USCG BWMS installation date extension. This creates a situation where vessels granted an extension by the USCG will technically be in violation of the Clean Water Act once the required installation date has passed. EPA policy is that this will be a low enforcement priority.

3.2. Regulation of Ballast Water under the VGP

3.2.1 The [Final 2013 VGP](#) contains numeric ballast water discharge limits for most vessels. The permit generally aligns with requirements contained within the 2012 USCG ballast water rulemaking. Additionally, the VGP contains requirements to ensure BWMSs are functioning correctly.

3.2.2 As a condition of the permit, all discharges of ballast water must also comply with applicable USCG regulations found in 33 CFR 151.

3.2.3 Additionally, owner/operators of all vessels subject to coverage under this permit which are equipped with ballast tanks must comply with any additional best management practices in this section. Discharges of ballast water may not contain oil, noxious liquid substances or hazardous substances in a manner prohibited by U.S. laws, including section 311 of the CWA.

3.3 EPA Contacts and Information

The following links and email addresses should be used to contact the USCG directly for additional information about their ballast water program or with questions:

VGP Program: <https://www.epa.gov/npdes/vessels-vgp>.

4.0 Individual U.S. State Requirements

4.1 General

4.1.1 As provided in §9.1 above, RMI-flagged vessel owners or operators must comply with coastal State requirements, including any regional or local requirements. This includes the requirements promulgated by individual states within the U.S.

4.1.2 Individual U.S. state requirements are found in section 6 of the [Final 2013 VGP](#) as well as on the websites of the state regulatory bodies with the authority to regulate ballast water discharges.

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