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TANKER FORUM

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Ballast Water Management in the USA

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US COAST GUARD

**US ENVIRONMENTAL
PROTECTION AGENCY**



Final Regulations issued March 23, 2012

- BWM discharge standard (same as IMO), **review in 4 yrs**
- Schedule for installation of BWMS similar to IMO, **BUT NO** intent to align schedule with Resolution A.1088
- BWMS **not required** if no discharge of ballast water into US waters (12 miles)
- Acceptance of “Alternative” (AMS) BWMS for 5 years
- All ships must eventually install **CG approved BWMS**
- Ships may request an **extension to compliance date** for installation of a USCG approved BWMS



US Coast Guard – Extension requests

- Prior to December 2016, more that **12,500 extensions have been granted**
- Policy guidance on extensions have been issued:
 - MSIB No. 13-15, issued October 20, 2015
 - MSIB No. 10-16, issued July 13, 2016
 - MSIB No. 14-16, issued December 2, 2016

Changed “ground rules” for granting extensions”

 - MSIB No. 3-17, issued March 6, 2017

Further expanded on the new “ground rules”



US Coast Guard – Extension requests

MSIB No. 13-15, issued October 20, 2015

- Extensions will be **granted to the vessel's next scheduled drydocking** after the vessel's required implementation date
- Vessel's first scheduled drydocking date will be determined based upon when the vessel enters the drydock
- Existing extension letters with a January 1 dated will not be re-issued. Change will be made when a vessel applies for a supplemental extension
- **Supplemental extensions** will be required to be submitted



US Coast Guard – Extension requests

MSIB No. 10-16, issued July 13, 2016

- An installed AMS can be used for five years from the “**extended compliance date**” if the AMS is installed prior to the expiration of the vessel’s extended compliance date
- Guidance in the event a vessel owner enters into a contract with a company to install an AMS before a vessel’s compliance date and, after the contract but prior to AMS installation, a Coast Guard type-approved BWMS becomes available for that vessel. In this instance, the USCG advises that the owner may proceed with the installation of the AMS. The installed AMS may then be employed for up to five years beyond the vessel’s compliance date.



US Coast Guard – Extension requests

MSIB No. 14-16, issued December 2, 2016

- Extensions will **remain valid** until the extended compliance date specified in the extension letter
- CG will continue to accept requests for extensions, BUT **applicant must document why it is not possible to install one of the CG approved BWMS**
- Provides examples of the documentation required to support an extension request, eg.
 - Correspondence with BWM manufacturer that BWMS not available by compliance date
 - Vessel design limitations with approved BWMS
 - Safety concerns with approved BWMS



US Coast Guard – Extension requests

Ground rules for granting extensions has changed!!

- Extension requests for vessels with compliance dates on or after Jan 1, 2019 are “held in abeyance”, additional documentation as to why compliance with the requirements is not possible must be submitted.
- Coast Guard evaluates applications 12 to 16 months before a vessel's compliance date, and considers the availability of all Coast Guard type approved BWMS at that time.
- Applications received more than 16 months before their compliance date will need to be re-submitted or updated, based on current availability of approved BWMS.
- Ship with an AMS installed onboard is already in compliance with the requirements of 33 CFR 151.2025, therefore, an extension is not needed. They can use the AMS for 5 years. Thus far, more than 40 requests for extensions for ships with an AMS have been denied.



US Coast Guard – Extension requests

MSIB No. 3-17, issued March 6, 2017

- Existing extensions will **remain valid** until the extended compliance date specified in the extension letter
- Future extensions will **no longer be linked** to the vessel dry dock cycle
- Vessels with an AMS installed **do not qualify for an extension** because they are in compliance with CG regs
- Coast Guard will consider extension requests differently for vessels with different compliance dates, as follows:



Ballast Water Management – USCG

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MSIB No. 3-17, issued March 6, 2017 (continued)

Vessels having a compliance date before/including December 31, 2018:

- 1) Extension requests that do not provide a justification as to why compliance with one of the BWM methods is not possible by the current compliance date will be denied.
- 2) Vessel owners and operators who have identified that a Coast Guard type-approved BWMS is **available for a vessel but do not have enough time to install it** prior to the vessel's compliance date must provide a strategy, including a detailed installation plan, for how the vessel would be brought into compliance by installing a Coast Guard type-approved BWMS before the end of the extension. Extensions granted on this basis should be expected not to exceed 18 months.
- 3) Vessel owners and operators who have identified that a Coast Guard type-approved BWMS is **not available for a vessel** must provide a strategy, including a timeline, for how the vessel would be brought into compliance before the end of the extension. Extensions granted on this basis should be expected not to exceed 30 months.



Ballast Water Management – *USCG*

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MSIB No. 3-17, issued March 6, 2017 (continued)

Vessels having a compliance date between January 1, 2019 and December 31, 2020

The CG will begin considering these requests 18 months prior to the vessel's compliance date. **These requests could be impacted by changes in the market or availability of type-approved systems.** Owners and operators are encouraged to submit additional information in support of their extension request.

Vessels having a compliance date of January 1, 2021 or later

The CG **does not anticipate granting extensions.** Vessel owners and operators should plan to be in compliance on their current compliance date



RADM Thomas blog on MSIB 3-17

- Any extension request will be bolstered if the vessel operator demonstrates an understanding of how to match the operating profile of their vessel to the operating profile of a CG type approved BWMS
- It is **incumbent upon vessel operators to employ engineering and operational solutions** in order to install approved systems
- Where engineering/operational solutions can be made, the CG may consider extending the compliance date based on an installation plan
- Where installation of an approved system is not reasonable, **the CG would like to see a detailed analysis of how the operator intends to match the vessel with an approved BWMS at a future date** before considering any extension request
- Vessel operators should be working closely with BWMS manufacturers to ensure the systems in development meet the needs of their vessels.



Ballast Water Management – *USCG*

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- Since December 2016, USCG has granted more than **700 extensions and denied about 360**
- Most of those that have had extensions denied have been **given an additional six months** to provide further justification for an extension and a detailed plan which includes how and when they intend to comply
- A ship's compliance date is based upon **meeting the CG discharge standard in US waters** (12 miles)
- If a ship is not granted an extension and does not have a CG approved BWMS on board after its compliance date, it **is not in violation of US requirements, unless it discharges ballast water in US waters**



General guidance provided by CG to applicants

- 6-18 months extension are granted based on a verifiable explanation that none of the CG type approved systems are suitable for the vessel or there is insufficient time to install
- 18 months of time is intended to provide the vessel owner/operator with sufficient time to install a CG type approved system
- 6 months is intended to provide adequate opportunity to research commercially available systems and identify which ones are suitable for the vessel's operations
- In order to obtain an extension for 30 months from the time of the vessel's upcoming drydock, an applicant must provide a detailed strategy for compliance



General guidance provided by CG to applicants

- A strategy for compliance includes specific details concerning the methods you have identified under 33 CFR 151.2025 for managing ballast water. A contract to purchase a specific system will suffice.
- Alternatively, specific make, model and date of installation of a system, or specific details that define the kind of system you will purchase, or details concerning another means of compliance will suffice.
- The strategy will demonstrate that you are knowledgeable about the requirements, the available systems, and you are aware of the need to find a solution that matches the operational requirements of your vessel. It also demonstrates that you are pursuing a means of compliance.
- Many vessel managers have met this requirement by simply providing a short list of preferred ballast water systems, or a specific manufacturer that is most trusted, or a type of system that is most compatible with the operations or design of the vessel.



US Coast Guard – APPROVED BWM Systems

- **45 BWMS manufacturers** have submitted “Letter of Intent” (LOI) to pursue USCG approval (**58 AMS accepted by USCG**)
- At least 19 systems undergoing testing
- Only after the testing is completed by USCG accepted Independent Laboratory (IL) and the results have been evaluated, will a BWMS manufacturer then submit an application to the USCG for approval of their BWMS



US Coast Guard – APPROVED BWM Systems

- USCG has **approved** three BWM systems
 - **Optimarin** (December 2)
 - **Alfa Laval** (December 23)
 - **OceanSaver** (December 23)
- Approval certificates list Operational Limitation, if any, such as holding times, intrinsic safety, flow capacity, etc.
- USCG has received application for approval for:
 1. **BalClor** (January 26)
 2. **Ecochlor** (March 31)
 3. **Erma First** (May 10)



USCG has completed “practicability review” to determine whether technology to comply with a performance standard more stringent than that required by the Coast Guard’s current regulations on ballast water discharges can be practicably implemented

“Practicability review” concludes:

- that, at this time, technology to achieve a significant improvement in ballast water treatment efficacy onboard vessels cannot be practicably implemented
- there are no data demonstrating that ballast water management systems can meet a discharge standard more stringent than the existing performance standards.



EPA Vessel General Permit issued December 19, 2013

- To a large extent EPA VGP requirements are the same as USCG (discharge standard, compliance schedule, etc.)
- Approval of BWMS is not required
- BWMS monitoring required (functionality, equipment calibration, effluent, biocides) – **INTERTANKO guidelines**
- New ship (keel laid after December 1, 2013) is required to install a BWMS to comply with the VGP, i.e. **no acceptance of USCG extension** provision in the VGP
- EPA /USCG MoU – EPA Enforcement Policy, 27 Dec 2013
- Vessel with USCG extension is non-compliant (if discharges in US waters – 3 miles), but EPA regards as a low-enforcement priority, provided all other regs are met



Potential issue with EPA Enforcement Policy??

- Charter party agreements require tanker to be in compliance with all applicable laws and regulations
- Tanker that receives CG extension would be in compliance with CG requirements
- Tanker that has CG extension and discharges ballast water within US waters (3 miles) would be in violation of EPA Vessel General Permit
- **Would this violate charter party agreements???**
- Thus far, not aware of any comments from oil majors or charterers on this issue



US COURT OF APPEALS RULING ON EPA VGP BALLAST WATER REQUIREMENTS

- EPA acted arbitrarily and capriciously in, among other things, selecting the IMO ballast water standard as the standard in the VGP
- Decision based in part on the EPA's Science Advisory Board (SAB) report “which identified a number of technologies that can achieve standards higher than IMO for one or more organism sizes”
- Court has remanded the matter back to EPA for review
- Court also ruled that the 2013 VGP shall remain in place until EPA issues a new VGP



Ballast Water Management

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SUMMARY

US Coast Guard

- Three CG approved BWMS, more to come
- Extensions will be much more difficult to obtain
- Shipowners should be planning to install a CG approved BWMS that is compatible with their ship

US EPA

- Does not accept extensions
- Ships with CG extensions that discharge ballast water within 3 miles of US is in violation of VGP
- EPA considers violation as low enforcement priority
- EPA preparing VGP 2018 for comments



THANK YOU!