



16711
CG-OES Policy Letter
No. 13-01

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From:  R. E. BAILEY, CAPT
COMDT (CG-OES)

To: Distribution

Subj: EXTENSION OF IMPLEMENTATION SCHEDULE FOR VESSELS SUBJECT TO
BALLAST WATER MANAGEMENT (BWM) DISCHARGE STANDARDS

Ref: (a) Title 33 Code of Federal Regulations (CFR) Part 151 Sections 1513 & 2036
(b) Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters
(Federal Register/Volume 77, No. 57/March 23, 2102/page 17254)
(c) 33 CFR 151.2026
(d) CG-OES Policy Letter No. 12-01 (15 June 2012)

1. PURPOSE. Reference (a) contains provisions for the Coast Guard to grant an extension to the implementation schedule for Ballast Water Management Discharge Standards for vessels using Coast Guard Approved Ballast Water Management (BWM) Systems as provided in 33 CFR 151.1513 and 151.2036. Under these regulations, an extension request must be filed with the Coast Guard no later than 12 months before the vessel's applicable implementation date. The extension request must provide documentation that despite all efforts to meet the ballast water discharge standard requirements found in 33 CFR 151.1511 or 33 CFR 151.2030 of this rule, compliance by the date stipulated in the implementation schedule is not possible for the subject vessel.¹ This policy letter provides information and guidance to vessel owners/operators on how to submit an extension request to the Coast Guard.

2. ACTION. Area, District, and Sector Commanders and Captains of the Port shall ensure that the provisions of this policy are brought to the attention of the appropriate individuals in the maritime industry. Internet release is authorized.

3. DIRECTIVES AFFECTED. None.

4. BACKGROUND. Reference (b) became effective on June 21, 2012 and established a quantitative ballast water discharge standard and BWM methods for many of the non-

¹ Some vessels that are not covered by the applicability requirements of reference (b) may still be subject to the ballast water management requirements of the U.S. EPA Vessel General Permit (VGP) issued under Section 402 of the Clean Water Act. A discussion of the VGP is beyond the scope of this policy letter. The EPA's 2013 VGP can be found on the Internet at <http://www.epa.gov/npdes/vessels>.

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recreational vessels equipped with ballast tanks and operating in waters of the United States. Exemptions from applicability of the regulations finalized by reference (b) are detailed in 33 CFR 151.1502 (Subpart C – Great Lakes and Hudson River) and 151.2015 (Subpart D – all other waters of the United States). The compliance dates for implementing the ballast water discharge standard (BWDS) vary based on a vessel's ballast water capacity and construction date. The implementation schedule for BWDS for Subpart C is shown in Table 151.1512 (b) and the schedule for Subpart D is shown in Table 151.2035 (b).

All owners/operators of vessels equipped with ballast water tanks and operating in U.S. waters must follow the relevant BWM requirements when conducting ballast operations in U.S. waters. If, however, the vessel master, owner, operator, agent or person in charge of the vessel determines it is not possible to comply with the BWDS implementation schedule established for their operating area, they may request an extension as provided for in reference (a). Circumstances that may merit an extension request include limited availability of Coast Guard type-approved BWM systems and/or constrained shipyard capability and capacity to install the system. It is emphasized that every realistic option should be exhausted before an extension request is made. The maximum duration of an extension issued by the Coast Guard will not exceed 5 years from the vessel's implementation date indicated by Table 151.1512 (b) or Table 151.2035 (b).

Parties filing an extension request for a vessel should recognize that the actual date of delivery for new vessels and the actual date of the first scheduled drydocking for existing vessels are the implementation dates for purposes of requesting an extension under the submission procedures outlined below. The actual date of delivery for new or drydocking date for existing vessels is critical, as extension requests must be submitted at least twelve months prior to this date. In rare circumstances when a master, owner, operator, agent, or person in charge is unable to submit an extension request 12 months before the vessel's implementation date, such as establishing new ownership of the vessel, an extension request should be submitted as early as possible. Further, a detailed explanation with supporting documentation of why the extension request was not submitted in accordance with the regulatory deadline must be provided.

In those instances where the duration of a granted extension proves insufficient due to unanticipated delays or changes in circumstances, a vessel's owner, operator, agent, master, or person in charge may submit a supplemental extension request for the vessel. This supplemental extension request should be submitted not less than 90 days prior to the end or termination date specified in the first extension granted by the Coast Guard for the subject vessel. The supplemental request needs to clearly state the reason(s) why the vessel needs additional time to comply with the ballast water management requirements, including situation-specific documentation.

Finally, for vessel owners/operators that choose to install an accepted Alternate Management System (AMS) in accordance with references (c) and (d), extension requests are not required while the BWM system is in use as an AMS. Vessel owners/operators are reminded that installation of an AMS is entirely at the discretion of the vessel owner and may be employed for no longer than 5 years from the vessel BWM Discharge Standard implementation date.

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5. PROCEDURES FOR MAKING REQUESTS.

A. Extension requests should be written in English and may be either be:

1. Mailed to:

COMMANDANT (CG-OES)
U. S. COAST GUARD
STOP 7509
2703 MARTIN LUTHER KING JR AVE. SE
WASHINGTON, D.C. 20593-7509

(The package used to mail the extension request should be marked "Extension Request" in the lower left corner to aid in internal mail routing.)

or,

2. Submitted electronically as an e-mail attachment to:
environmental_standards@uscg.mil

B. Extension requests shall be submitted to the Coast Guard not less than twelve months prior to the compliance date listed in the applicable implementation schedule.

C. The minimum vessel specific information shall include:

1. Vessel Name;
2. Vessel IMO or other official number;
3. Total ballast water capacity; and,
4. Scheduled delivery date after December 1, 2013 for a new vessel; or last drydocking date and first scheduled dry docking date after January 1, 2014 or January 1, 2016, as applicable, for existing vessels.

D. Inclusion of the following information will aid the Coast Guard in making its decision:

1. Documentation from shipyards indicating a lack of capability or capacity to install a BWMS on the vessel to comply with the implementation schedule;
2. Documentation of non-availability of suitable onshore facilities to receive untreated ballast water;
3. Documentation of non-availability of water from a U.S. public water system that can be used as ballast water;
4. Documentation attesting that Coast Guard type approved ballast water management systems suitable for specific vessels of a particular design are not yet available;
5. A plan that indicates how the vessel will manage ballast water discharges that take place in U.S. waters;

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6. Estimate as to when the vessel will be able to implement an approved BWM method and describe what the vessel will do to manage or treat ballast water discharged from the vessel during the extension period;
7. If ballast water exchange will be performed on the vessel during the extension period, the request should include a statement stipulating that the vessel seeking the extension will conduct complete ballast water exchanges in an area 200 nautical miles from any shore prior to discharging ballast water into the waters of the United States, or otherwise if so required by a U.S. state;
8. For representatives of vessels currently under or planning to submit a classification society safety prohibition from conducting ballast water exchange, the extension request must detail the reasons for the safety exemption and how operational practices have been adapted so that only that amount of ballast water operationally necessary to ensure the safety of the vessel for cargo operations is discharged into U.S. waters. Vessel owners/operators are reminded that the intent of reference (b) is to ensure to the maximum extent practicable that aquatic nuisance species are not discharged into U.S. waters and should give due consideration to this when providing the Coast Guard with the above information. Vessel representatives should note that upon the Coast Guard's type approval of a BWM system for use on the vessel, such a vessel will be required to install a BWM system at its earliest opportunity.

6. REVIEW AND NOTIFICATION OF RESULTS. While the Coast Guard cannot anticipate the range of circumstances that may lead to a request for an implementation schedule extension, all requests must clearly explain why despite all efforts the vessel is unable to meet the BWDS requirements by the applicable compliance date and also contain complete and accurate supporting documentation to support the explanation. The explanation must detail the steps taken by the vessel's owner, operator, agent, master, or person in charge to implement an accepted ballast water management method for the vessel.

Coast Guard personnel will closely examine ballast water report forms and records, and the vessel's ballast water management plan when assessing adherence to the measures discussed here and in reference (b). Extension requests will be evaluated solely upon the information and documentation provided by the submitter. As the Coast Guard may need further clarification of information found in the request prior to making a decision, it is important that the point of contact information (name, phone number, e-mail address) is accurate.

Extension requests will be answered with a letter containing the rationale for the Coast Guard's decision. When an extension is granted, the duration of the extension will be specified and a copy of the Coast Guard's decision letter must be placed onboard the applicable vessel. The letter needs to be available upon request to Coast Guard vessel inspectors and port state control officers, as well as other federal, state, and local officials with jurisdiction over ballast water discharges into U.S. waters.

A copy of the decision letter will be uploaded to the Coast Guard's Maritime Information and Safety Law Enforcement (MISLE) Database so Coast Guard field personnel can verify a vessel's

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compliance status. Summary information concerning all extensions, including the names of the vessel and vessel owner/operator; duration term of the extension; and basis for the extension will be posted on the U.S. Coast Guard Maritime Information Exchange Web site (CGMIX), which is currently located at: <http://cgmix.uscg.mil/Default.aspx>.

Vessel owners and operators should be aware that the Environmental Protection Agency's (EPA) 2013 Vessel General Permit (VGP) contains ballast water treatment technology requirements. In Section 1.9 of the 2013 VGP, the EPA advises that "where the U.S. Coast Guard has granted or denied an extension request pursuant to 33 CFR 151.2036, that information will be considered by EPA, but is not binding on EPA." As such, vessel owners/operators are encouraged to contact the EPA at the earliest opportunity to inquire about their vessel's status regarding 2013 VGP ballast water technology requirements.

7. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to, nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current view on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying existing statutory and regulatory requirements.

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