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CG-OES Policy Letter
No. 13-01, Revision 2
16 November 2015

From: S. J. KELLY, CAPT
COMDT (CG-OES)

To: Distribution

Subj: EXTENSION OF IMPLEMENTATION SCHEDULE FOR APPROVED BALLAST
WATER MANAGEMENT METHODS, Revision 2

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, 2012/page 17254)

1. PURPOSE. This policy letter provides revised guidance to vessel owners and operators seeking to extend compliance dates for implementing approved Ballast Water Management (BWM) methods. Reference (a) contains provisions for the Coast Guard to grant an extension to a vessel's original compliance date under the implementation schedule in 33 CFR 151.1512 and 151.2035. Every extension request and supplemental extension request must document that, despite all efforts, compliance with the requirement under 33 CFR 151.1510 or 33 CFR 151.2025 by the date stipulated in the implementation schedule, or the end date specified in the current extension granted by the Coast Guard, is not possible for the subject vessel.¹

2. ACTION. Area, District, and Sector Commanders and Captains of the Port should 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. CG-OES Policy Letter No. 13-01, Rev. 1 dated Sept 10, 2015 is superseded.

4. BACKGROUND. Reference (b) became effective on June 21, 2012, and established a quantitative ballast water discharge standard (BWDS) and approved BWM methods for many of the non-recreational vessels equipped with ballast tanks that operate in waters of the U.S. 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 33 CFR 151.2015 (Subpart D – Waters of the United States). The original compliance dates for implementation of approved BWM methods vary based on a vessel's ballast water capacity and construction date. The implementation schedule for compliance with approved BWM methods for Subpart C is

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. Please note statement in Section 6 of this policy letter regarding EPA's policy on Coast Guard extension letters. 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://water.epa.gov/polwaste/npdes/vessels/Vessel-General-Permit.cfm>

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shown in Table 151.1512(b), and the implementation schedule for Subpart D is shown in Table 151.2035(b). All owners and operators of vessels equipped with ballast water tanks and operating in waters of the U.S. (including the Great Lakes) must follow applicable BWM requirements when conducting ballast operations in waters of the U.S.

5. ORIGINAL COMPLIANCE DATE & FIRST SCHEDULED DRYDOCKING.

The “original compliance date” for a vessel is determined by the Implementation Schedule in either Table 151.1512(b) for Subpart C or 151.2035(b) for Subpart D. New vessels (those constructed on or after December 1, 2013) must use an approved BWM method by their delivery date. Existing vessels (those constructed before December 1, 2013) must use an approved BWM method by their original compliance date. An existing vessel’s original compliance date depends upon the vessel’s ballast water capacity and is set as the first scheduled drydocking date after a date specified in either Table 151.1512(b) or 151.2035(b), as applicable.

The BWM regulations do not define “first scheduled drydocking”. The following guidance is applicable to the first scheduled drydocking and other drydocking dates for existing vessels:

- In all cases, a vessel’s “first scheduled drydocking” date for the purposes of compliance with the BWM implementation schedule is the date the vessel enters a drydock. For example, if a vessel enters drydock on or before December 31, 2015 and does not leave drydock until after January 1, 2016, the drydock is not considered the “first scheduled drydocking after January 1, 2016” for purposes of compliance;
- A drydocking begun after the date specified in either Table 151.1512(b) or 151.2035(b), as applicable, which is necessary for emergency repairs is not considered the first scheduled drydocking. However, if this drydocking satisfies the Administration for endorsing the Certificate of Inspection, passenger ship safety certificate, cargo ship safety certificate, or cargo ship safety construction certificate as the required survey of the bottom of the ship, this drydocking date is considered the first scheduled drydocking;
- A scheduled drydocking begun after the date specified in either Table 151.1512(b) or 151.2035(b), as applicable, to satisfy a statutory bottom survey requirement or to accomplish planned work (such as a drydocking to install exhaust gas cleaning equipment or to install a new bottom coating system), as opposed to emergency work, is considered the “first scheduled drydocking”.

An underwater inspection in lieu of drydocking (UWILD) is not considered the “first scheduled drydocking”; instead:

- For vessels that undergo one UWILD and one drydocking for statutory purposes every five years, the first scheduled drydocking is the first drydocking conducted for statutory purposes after the date specified in either Table 151.1512(b) or 151.2035(b), as applicable;
- For vessels that do not routinely undergo drydockings, their original compliance date is 1 January 2014 or 1 January 2016, depending on the vessel’s ballast water capacity.

The Coast Guard recommends vessel owners maintain, in contracts, records, or logbooks, documentation of the date the vessel entered/left the drydock and the reason why the vessel was drydocked, and be prepared to present the information to Coast Guard compliance personnel if there are any questions concerning the vessel's compliance.

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6. EXTENSION REQUESTS AND SUPPLEMENTAL EXTENSION REQUESTS.

6(a). PROCEDURES FOR EXTENSION APPLICATION:

The Coast Guard may grant an extension to the implementation schedule listed in 33 CFR 151.1512(b) or 33 CFR 151.2035(b) 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. Circumstances that may merit an extension request include limited availability (or no availability) of Coast Guard type-approved BWMS (including constrained shipyard capability and capacity to install the system prior to the deadline) and lack of availability of, or ability to use exclusively, water from a U.S. public water system (PWS). Every realistic option should be exhausted before an extension request is submitted. Extensions will be granted for no longer than the minimum time needed, as determined by the Coast Guard, for the vessel to comply with the requirements in 33 CFR Subparts C or D.

Vessels that intend to retain ballast water on board when operating in waters of the U.S., or intend to discharge ballast water to a facility onshore or to another vessel for purposes of treatment, do not need an extension. These approved BWM methods must be included in the vessel's BWM Plan.

Vessel owners and operators requesting an extension or supplemental extension of compliance date should recognize the Coast Guard determines "original compliance date" by the following implementation schedule as listed in 33 CFR 151.1512(b) or 33 CFR 151.2035(b):

- A. For vessels constructed on or after December 1, 2013: the date of vessel delivery.
- B. For vessels constructed before December 1, 2013, and
 - 1. having less than 1500 m³ ballast water capacity: the date of the first scheduled drydocking after January 1, 2016; or
 - 2. having 1500-5000 m³ ballast water capacity: the date of the first scheduled drydocking after January 1, 2014; or
 - 3. having greater than 5000 m³ ballast water capacity: the date of the first scheduled drydocking after January 1, 2016.

Determining the correct original compliance date is critical, as extension requests must be submitted at least 12 months prior to this date. In certain circumstances, a party may be unable to meet the 12 month requirement (e.g., establishing new ownership of the vessel). In such cases, the extension request should be submitted as early as possible with supporting documentation justifying the party's reason for not meeting the regulatory deadline.

The terms of ballast water extensions to the "next scheduled drydocking" after a vessel's original compliance date will be reflected in a revised approval letter. For vessels that have received extension letters prior to the publication date of this Policy Letter, Rev. 2, the Coast Guard will apply the new terms when it applies for a supplemental extension.

A vessel may need a supplemental extension because compliance is still not possible. For this vessel, the supplemental extended compliance date will be its next scheduled drydocking after its

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current extended compliance date. However, if the vessel's next scheduled drydocking is less than two years away, the Coast Guard may grant an extension to the second scheduled drydocking that the applicant provides (see Section 6(b) below).

Extension requests must be written in English and submitted electronically as an e-mail, with an application spreadsheet with required information attached, to: environmental_standards@uscg.mil

A copy of the recommended format for the application spreadsheet is available for download on the Coast Guard's Internet portal at <http://homeport.uscg.mil/ballastwater>, in the "Regulations and Policy Documents" folder where this policy letter is located.

The vessel specific information shall include:

1. Vessel Name (do not include designations such as M/V unless part of official name);
2. Vessel IMO number (or other official number if vessel does not have IMO number);
3. Total ballast water capacity in cubic meters (m³);
4. Scheduled delivery date after December 1, 2013 for a new vessel (See 33 CFR 151.1512(b) or 151.2035(b) for definition of "new vessel"; and 33 CFR 151.1504 or 151.2005 for definition of "constructed"); or
5. First and second scheduled dry docking dates after January 1, 2014 or January 1, 2016, as applicable, for an existing vessel; and
6. Company name and mailing address, and email addresses of contacts.

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 or another vessel 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 BWMS suitable for specific vessels of a particular design are not yet available;
5. A statement that the vessel has a BWM plan that the vessel will follow for discharges that take place in waters of the U.S.;
6. Estimate as to when the vessel will be able to implement an approved BWM method;
7. If the vessel will conduct ballast water exchange during the extension period, the request should include a statement that the vessel will conduct complete ballast water exchange in an area 200 nautical miles from any shore prior to discharging ballast water into waters of the U.S., unless the provisions of 33 CFR 151.2040 apply, or otherwise if so required by a U.S. state;
8. In cases where the vessel has sought a classification society "safety exemption" 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 the amount of ballast water operationally necessary is discharged into waters of the U.S.

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6(b). PROCEDURES FOR SUPPLEMENTAL EXTENSION APPLICATION:

If an extended compliance date proves insufficient due to unanticipated delays or changes in circumstances, a master, owner, operator, agent, or person in charge of the vessel may submit a supplemental extension request for the vessel. The supplemental extension request should be submitted not less than 90 days prior to the end or termination date specified in the prior extension granted by the Coast Guard. The supplemental request must reference the original vessel name and IMO number and clearly state the reason(s) why the vessel needs additional time to comply with the BWM requirements, including situation-specific documentation.

To minimize redundancy, if all documented reasons provided in the initial extension request are unchanged, a declarative statement to that effect can be made for each vessel identified in the request for a supplemental extension. Additionally, if an owner or operator has more than one vessel with the same expiring extension date, then all such vessels may be covered by one request.

The vessel specific information shall include:

1. Vessel Name (do not include designations such as M/V unless part of official name);
2. Vessel IMO number (or other official number if vessel does not have IMO number);
3. Reason that supplemental extension is requested;
4. If applicable, a declarative statement that all documented reasons provided in the initial extension request are unchanged; and
5. Next two scheduled dry docking dates after original compliance dates.
6. Changes to company name or mailing address, and email addresses of contacts.

7. REVIEW AND NOTIFICATION OF RESULTS. Extension requests will be evaluated based on the information and documentation provided. As the Coast Guard may need further clarification prior to making a decision, current contact information must be provided with all submittals.

The Coast Guard will respond to all extension requests with a rationale for the decision. When an extension is granted, the duration of the extension will be specified in the decision letter, a copy of which must be retained onboard the vessel. The letter must also be available 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 waters of the U.S. A vessel's approved extension letter may be transferred to a new owner for the remainder of its extended compliance date.

Information on the decision will be uploaded to the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) Database so Coast Guard field personnel can verify a vessel's compliance status. Summary information concerning all approved extensions will be posted in the "Regulations and Policy Documents" folder on the U.S. Coast Guard's Internet portal at <http://homeport.uscg.mil/ballastwater>.

Vessel owners and operators should be aware that the Environmental Protection Agency (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

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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 EPA at the earliest opportunity to inquire about their vessel's status regarding 2013 VGP ballast water technology requirements.

8. 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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