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SUBJ: Implementation of a Ballast Water Discharge Standard (BWDS)

A. 77 FEDERAL REGISTER 17254, Standards for Living Organisms in Ships Ballast Water Discharged in U.S. Waters

B. 77 FEDERAL REGISTER 33969, Technical Corrections to BWDS

1. SUMMARY: The Coast Guard is amending its regulations on ballast water management found in 33 CFR Part 151. Ref A establishes a standard for the allowable concentration of living organisms in ships ballast water discharged in waters of the United States. The Coast Guard is also amending its regulations for engineering equipment to treat ballast water by establishing an approval process for ballast water management systems (BWMS). These new regulations will aid in controlling the introduction and spread of nonindigenous species from ships ballast water in waters of the United States. The new BWDS takes effect on June 21, 2012, although the required use of BWMS will be phased-in and not required until after December 2013. The phase-in schedule is dependent on vessel build date, ballast water capacity, and drydock schedule. Until such time that NVIC 07-04, Change 1, Ballast Water Management for the Control of Aquatic Nuisance Species in the Waters of the United States, is amended, this notice will serve as interim guidance, in conjunction with NVIC 07-04, Change 1, for marine inspectors (MI) and Port State Control Officers (PSCO), as specified in paragraph 3.

2. BACKGROUND:

A. Ref A establishes a BWDS that is protective of the marine environment and is also consistent with the discharge standard adopted by the International Maritime Organization (IMO) in 2004. The rule, among other things:

i. Implements the BWDS on a phased schedule, based on a vessels ballast water capacity and construction date.

ii. Authorizes several BWM methods, including the installation and use of a Coast Guard approved ballast water management system (BWMS).

iii. Establishes a process for Coast Guard type approval of ballast water management systems and

iv. Includes Alternate Management System (AMS) provisions which permit a vessel to meet its ballast water exchange requirement through the use of a BWMS approved by a foreign administration.

B. In addition to those vessels currently required to conduct mid-ocean ballast water exchange, the BWDS will apply to seagoing vessels that do not operate beyond the U.S. Exclusive Economic Zone, that take on and discharge ballast water in more than one Captain of the Port (COTP) Zone, and are greater than 1,600 gross register tons.

C. The Coast Guards BWMS type-approval process establishes requirements for designing, testing, installing, and operating shipboard equipment. The process will be similar to type-approval activities for marine sanitation devices and oily water separators.

D. For a BWMS to be considered under the AMS provisions, it must be installed prior to the vessels mandatory compliance date. The vessel may employ the AMS for a period of no longer than five years from the date it would otherwise be required to comply with the discharge standard. CG-OES will be responsible for issuing AMS acceptance letters to vendors as BWMS are accepted. A copy of the AMS acceptance letter shall be maintained aboard the vessel.

E. Vessels with a date of construction on or after December 1, 2013 will be required to meet the discharge standard upon delivery.

Vessels constructed prior to December 1, 2013 will be required to meet the discharge standard according to a phased implementation

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schedule based upon the vessels ballast water capacity and construction, but not earlier than the first scheduled drydock after January 1, 2014.

F. Navigation and Inspection Circular (NVIC) 07-04, Change 1, Ballast Water Management for the Control of Aquatic Nuisance Species in the Waters of the United States, provides additional guidance for Coast Guard personnel, vessel owners and operators, masters and shipping agents and persons-in-charge concerning compliance with, and enforcement of, the U.S. Coast Guards existing BWM Program. Until NVIC 07-04, Change 1 is amended, this notice will serve as interim guidance for both Marine Inspectors (domestic) and Port State Control Officers (foreign) when conducting ballast water inspections/examinations.

3. COAST GUARD IMPLEMENTATION:

A. Initial actions: The first vessels to which the new ballast water management requirements in 33 CFR 151.2025 will apply are new vessels constructed on or after December 1, 2013. Consequently, the only new requirement for vessels that comes into effect on June 21, 2012 is for the incorporation of vessel specific Biofouling Management and Sediment Management Plans in the already required vessel Ballast Water Management Plan, in accordance with 33 CFR 151.2050(g)(3). Inspectors and PSCOs shall verify a plan meeting these requirements is on board the vessel. Keeping separate Biofouling Management and Sediment Management Plans on board, and referencing them in the Ballast Water Management Plan, would comply with Coast Guard requirements under 33 CFR 151.2050(g)(3).

B. Longer term: For vessels constructed on or after December 1, 2013, and for existing vessels constructed before that date and inspected/examined after the vessels compliance dates according to the schedule in 33 CFR 151.2035(b), Coast Guard MIs and PSCOs should verify compliance with the new BWDS during routine, scheduled inspections/examinations. Vessels required to comply with the BWDS, which include vessels currently required to conduct mid-ocean ballast water exchange, and seagoing vessels greater than 1,600 gross register tons that do not operate beyond the U.S. Exclusive Economic Zone that take on and discharge ballast water in more than one Captain of the Port (COTP) Zone, will comply with the ballast water management requirements found in 33 CFR 151.2025. This includes implementing one of the following options:

- i. Install and operate a ballast water management system (BWMS) that has been approved by the Coast Guard under 46 CFR part 162.
- ii. 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.
- iii. Perform a complete ballast water exchange in an area 200 nautical miles from any shore prior to discharging ballast water, unless the vessel is required to employ an approved BWMS per the schedule found in 33 CFR 151.2035(b). An alternate management system (AMS) that meets the requirements of 33 CFR 151.2026 may also be used, so long as it was installed on the vessel prior to the date that the vessel is required to comply with the BWDS in accordance with 33 CFR 151.2035(b).
- iv. Discharge no ballast water into the waters of the United States, or
- v. Discharge to a facility onshore or to another vessel for purposes of treatment.

C. For most vessels, currently in effect ballast water exchange will remain the preferred method of compliance until such time that the vessel is required to install a BWMS. Some vessels may install a BWMS accepted by the Coast Guard as an alternate management system (AMS), and use the AMS in lieu of conducting mid-ocean ballast water exchange. At this time, no AMS acceptances have been issued. CG-OES will issue letters of acceptance to BWMS manufacturers whose BWMS have been deemed to meet the requirements for AMS in 33 CFR 151.2026. Vessels using an accepted AMS must maintain a copy of the AMS acceptance letter on board the vessel, and available for inspection by the Coast Guard.

D. Coast Guard enforcement guidance found in NVIC 07-04, Change 1, Enclosure (4) remains valid, and should be referred to by any MI/PSCO that discovers evidence of non-compliance. Further information on inspection/examination procedures can be found in Marine Inspection Notice 05-12, located in the CG Portal, <https://cgportal.uscg.mil/CTL/40T2ZQ>, under Announcements.

4. For further information regarding the BWDS, refer to <http://www.uscg.mil/hq/cg5/cg522/cg5224/>. For questions about enforcement of the Final Rule, please contact LCDR Chuck Fluke (CG-CVC-2) at (202) 372-1235 or Charles.K.Fluke@uscg.mil. For general questions regarding ballast water management, send an email to CGCVCA@uscg.mil.

5. RADM Joseph A. Servidio, Assistant Commandant for Prevention Policy, sends.

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6. Internet release is authorized.
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