

## Client Alert 01-2014 December 9, 2014

### Ballast Water Management Standard Implementation in U.S. Waters Update on USCG + EPA Response to Extension Requests

Further to our Client Alert 32-2013 dated 03 December 2013 describing the implementation of the USCG's Final Rule on the Ballast Water Management Standard, we draw your attention to the attached statements and memoranda issued both independently and jointly by the United States Coast Guard (USCG) and Environmental Protection Agency (EPA), on the subject of extensions to implementation dates for Ballast Water Treatment Systems (BWTS).

As described in our Client Alert 32-2013, the procedure for applying for an extension under 33 CFR 151 is detailed in [USCG Policy Letter 13-01](#) (copy attached), which was released on 25 September 2013. This resulted in the USCG receiving several extension requests from operators over the past three months, which prompted them to notify the EPA, who are responsible for enforcing Vessel General Permit (VGP) requirements including those pertaining to Ballast Water discharges. As further guidance to industry, the USCG and EPA have recently released a [joint letter](#) on 24 December 2013 (copy attached) which is a sample of the acknowledgement sent to operators who have received approval for their extension requests. This letter also refers to the EPA's memorandum detailing [Enforcement Response Policy for the 2013 VGP Ballast Water Discharges and USCG Extensions](#) under 33 CFR 151 (copy attached), which was released on 27 December 2013. In this memorandum, the EPA explains its enforcement policy with regard to vessels that have obtained an extension from the USCG for BWTS installation. They also state that for vessels operating in accordance with the USCG extension which are otherwise in full compliance with Vessel General Permit (VGP) requirements, non-compliance with the 2013 VGP ballast water numeric discharge limits will be considered a low enforcement priority (which essentially means that penalties will not be imposed).

We take this opportunity to remind our clients of the USCG Final Rule describing the Ballast Water Discharge Standard (BWDS) under 33 CFR 151 Subpart D (*Ballast Water Management for Control of Nonindigenous Species in Waters of the United States*). As described therein:

- 1) **The first phase of installation began on 01 December 2013, for all vessels constructed on/after that date.**
- 2) **The second phase began on 01 January 2014 for older vessels with a ballast water capacity between 1500 M3 and 5000 M3, which are required to install a Ballast Water Management (BWM) system by their first scheduled drydocking after that date.**
- 3) **The third phase of installation begins after 01 January 2016, when all other vessels are required to install a Ballast Water Management (BWM) system by their first scheduled drydocking after that date.**

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The table below summarizes the implementation schedule :

**TABLE 151.2035(B)—IMPLEMENTATION SCHEDULE FOR APPROVED BALLAST WATER MANAGEMENT METHODS**

<b>Vessel age</b>	<b>Vessel ballast water capacity</b>	<b>Date constructed</b>	<b>Vessel's compliance date</b>
New vessels	All	On or after December 1, 2013	On delivery
Existing vessels	Less than 1500 m <sup>3</sup>	Before December 1, 2013	First scheduled drydocking* after January 1, 2016.
	1500-5000 m <sup>3</sup>	Before December 1, 2013	First scheduled drydocking* after January 1, 2014.
	Greater than 5000 m <sup>3</sup>	Before December 1, 2013	First scheduled drydocking* after January 1, 2016.

\* *Drydocking means hauling out of a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings.*

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