

**REPUBLIC OF
THE MARSHALL ISLANDS**



**Ballast Water Management
Marine Guideline**

MARITIME ADMINISTRATOR

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Marine Guideline

No. 2-14-1

Mar/2019

**TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF
MERCHANT SHIPS, AND RECOGNIZED ORGANIZATIONS**

SUBJECT: Ballast Water Management

Reference: RMI Marine Notice [2-014-1](#), *Ballast Water Management*

PURPOSE

This document provides guidance for complying with ballast water management (BWM) requirements. It addresses differences in the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention), and the requirements imposed by coastal States, including the United States (US).

This Guideline supersedes that of Rev. Mar/2018. It has been updated to reflect changes to the US ballast water requirements following the enactment of the Vessel Incidental Discharge Act (VIDA).

APPLICABILITY

All RMI-flagged ships utilizing ballast water.

GUIDANCE

1.0 BWM Convention

1.1 Definitions

.1 Major Conversion

See International Maritime Organization (IMO) Circular [BWM.2/Circ.45](#), *Clarification of a major conversion as defined in regulation A-1.5 of the BWM Convention*.

2 Administration

With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil, thereof adjacent to the coast over which the coastal State exercises sovereign right for the purposes of exploration and exploitation of its natural resources, including Floating Storage Units (FSUs) and Floating Production Storage and Offloading Units (FPSO), the Administration is the Government of the coastal State concerned. See the BWM Convention, Article 1.

1.2 Where Ballast Water Exchange is Not Possible

1.2.1 IMO Circular [BWM.2/Circ.63](#), *Application of the Convention to Ships Operating in Areas Where Ballast Water Exchange in Accordance with Regulations B-4.1 and D-1 is Not Possible*, offers guidance for situations where a ship's voyage does not meet the requirements of an adequate distance from the nearest land – at least 50 nautical miles (nm) – and waters over 200 meters deep. It applies only to ships that are not required to meet the D-2 ballast water performance standard prior to its implementation schedule in accordance with regulation B-3.2.

1.2.2 In accordance with this circular, it is recommended that until the date a ship is required to meet the D-2 standard, a ship operating in a sea area where ballast water exchange (BWE) in accordance with regulation B-4.1 and D-1 is not possible:

- .1 should not be required to meet the D-2 standard;
- .2 should not be required to meet the D-2 standard even if the ship does not comply with BWM Convention regulations:
 - a. B-3.6 (discharge to a reception facility);
 - b. B-3.7 (Other methods); or
 - c. A-4 (Exemptions).
- .3 should not be required to proceed under regulation B-3.6, B-3.7, or A-4 of the BWM Convention; and
- .4 should record the reasons why BWE was not conducted in accordance with regulation B-4.5.

1.2.3 A port State may establish designated areas for BWE following the *Guidelines on Designation of Areas for Ballast Water Exchange* (G14), adopted by IMO Resolution [MEPC.151\(55\)](#).

1.3 Offshore Guidance

- 1.3.1 See the **Administration** definition in §1.1.2.
- 1.3.2 **IMO Circular [BWM.2/Circ.32](#)**, *Applicability of the Ballast Water Management Convention to Hopper Dredgers*: The rationale in this circular for hopper dredgers can also be applied to self-elevating units (SEU). Where the spudcan is an open structure (not sealed) such as on a jackup rig (SEU) and it allows water to flow through its grating, that is not considered ballast water.
- 1.3.3 **IMO Circular [BWM.2/Circ.44](#)**, *Options for Ballast Water Management for Offshore Support Vessels in accordance with the BWM Convention*.
- 1.3.4 **IMO Circular [BWM.2/Circ.46](#)**, *Application of the BWM Convention to Mobile Offshore Units*.
- 1.3.5 **IMO Circular [BWM.2/Circ.52/Rev.1](#)**, *Guidance on entry or re-entry of ships into exclusive operation within waters under the jurisdiction of a single Party*.

1.4 Yacht Guidance

- 1.4.1 **IMO Resolution [MEPC.123\(53\)](#)**, *Guidelines for Ballast Water Management Equivalent Compliance (G3)*. See also RMI Yacht Code ([MI-103](#)) for the application of the BWM convention requirements to yachts.
- 1.4.2 Yachts with an operational limitation under the RMI Yacht Code (MI-103) that may affect BWE should refer to §1.2, above.

2.0 Coastal States

- 2.1 Some coastal States impose different or additional ballast water requirements to those of the BWM Convention. RMI Marine Notice [2-014-1](#) requires all RMI-flagged vessels entering the jurisdiction of these States to comply with their requirements, including any additional regional or local mandates.
- 2.2 A coastal or port State authority may request or require specific ballast water procedures or treatment options be undertaken. If the required action cannot be taken due to weather, sea conditions, or operational impracticability, the Master should report this fact to the coastal State authority as soon as possible. Where appropriate, this reporting should occur before entering that coastal State's seas.

2.3 US Ballast Water Requirements

The Administrator does not normally cover the requirements of other nations. Due to the significant number of RMI-flagged vessels trading to the US, their ballast water requirements are provided in **Appendix A**. The US has not ratified the BWM Convention, but has in place a strict regime that is not complete aligned with international requirements.

All RMI ships trading into the US are required to comply with that port State's current requirements.

Appendix A: Ballast Water Requirements in the US

1.0 General

- 1.1. USCG BWM Program can be found at: <https://www.dco.uscg.mil/OES>. Click on **Ballast Water Management**. This website should be used for obtaining the most up-to-date information on the USCG BWM Program. Also, Navigation and Vessel Inspection Circular (NVIC) 01-18, *Ballast Water Management for Control of Non-indigenous Species in Waters of the United States*, dated 01 March 2018, provides details on the USCG BWM Program, including background information, reporting guidance, recordkeeping, extension requests, compliance guidance, enforcement information, and a list of USCG websites and emails for further information.

2.0 Background

- 2.1 The US is not a Party to the BWM Convention, but requires mandatory BWM practices for all vessels equipped with ballast water tanks bound for ports or places within the US or entering US waters from outside its exclusive economic zone (EEZ) and discharging ballast within three (3) nm or 12 nm of the US coast, depending on the enforcement agency as provided in §2.2, below. The US requirements are currently in force.
- 2.2 Ballast water discharge controls in the US are currently implemented under two (2) separate statutory and regulatory regimes administered independently by:
- .1 the USCG (See final rule on *Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters* in the Federal Register on 23 March 2012 (77 FR 17254) and final rule on *Ballast Water Reporting and Recordkeeping* in the Federal Register on 24 November 2015 (80 FR 73105), which amended the US Code of Federal Regulations (CFR) Title 33); and
 - .2 the US Environmental Protection Agency (EPA) which regulates discharges incidental to the normal operations of a vessel under 33 CFR §1342, as provided in the Final 2013 Vessel General Permit (VGP). The 2013 VGP is to be revised and reissued in December 2018.
- 2.3 The USCG and the EPA requirements include the same implementation schedule for installation of US type-approved ballast water management systems (BWMSs). Both the USCG and EPA have adopted the BWM Convention D-2 treatment standard. A major difference between the US Environmental Technology Verification (ETV) methodology and the IMO G8 guideline¹ is that the ETV measures numbers of living organisms whereas the BWM Convention G8 guidelines measures viable organisms, which has been

¹ When the Code for approval of Ballast Water Management Systems (BWMS Code) takes effect on 13 October 2019, the 2016 Guidelines for approval of BWMSs (G8) adopted by IMO Resolution [MEPC.279\(70\)](#) will be revoked. Type approvals of BWMS taking into account the 2016 Guidelines (G8) shall be deemed to be in compliance with the BWMS Code.

defined to mean living organisms and organisms that have the ability to successfully generate new individuals in order to reproduce the species.

- 2.4 VIDA became law in December 2018. Regulations to be developed under VIDA will replace the current USCG BWM rules and EPA's 2013 Vessel General Permit program. VIDA requires the EPA and USCG to work together to develop and implement ballast water and incidental discharge standards. It harmonizes the USCG's policy approach on reproductive methods in determining ballast water treatment system efficacy with that of the IMO. The USCG and EPA are still assessing the implications of these statutory changes and a lengthy rulemaking process is expected. Current requirements will continue to apply until any changes enter into force.
- 2.5 Importantly, many individual states within the US have implemented their own BWM requirements either through state regulations or through the Clean Water Act (CWA) (§401 Certification), as there is no federal preemption of state law with respect to vessel discharges. The state requirements often differ or are in addition to those of the US federal government. California and New York are considered to have the most stringent state requirements.

3.0 USCG Requirements

3.1 Applicability

- 3.1.1 The US Code of Federal Regulations at 33 CFR §151.2000-§151.2080 (Subpart D) governs BWM for control of nonindigenous species in US waters. In accordance with §151.2010, the ballast water requirements apply, with certain limited exceptions, to: "all non-recreational vessels, U.S. and foreign, that are equipped with ballast tanks and operate in the waters of the U.S." Recreational vessel is defined in 46 USC 2101(25).
- 3.1.2 Vessels operating in the Great Lakes and Hudson River north of the George Washington Bridge are subject to Subpart C requirements at 33 CFR §151.1500-§151.1518.

3.2 Ballast Water Management Plan

- 3.2.1 Owners and Masters engaged in trade within the waters of the U.S. must implement a Ballast Water Management Plan (BWMP) and the means to prevent the introduction of unwanted aquatic organisms and pathogens. Ships operating in US waters must comply with US requirements, including using one (1) of the BWM practices described in 33 CFR §151.2025 or 33 CFR §151.1510 for ships entering the Great Lakes, or operating on the Hudson River north of the George Washington Bridge; and, follow the practices in §151.2050.
- 3.2.2 Each vessel subject to this rule is required to develop and maintain an approved BWMP, and employ at least one (1) of the following BWM practices, unless using a USCG type-approved BWMS in accordance with the schedule in Table 151.1512(b) or Table 151.2035(b):

- .1 prior to discharging ballast water in US navigable waters and within 12 nm of the coast, perform complete BWE in an area no less than 200 nm from any shore, unless required to install a BWMS;
 - .2 retain ballast water on board the vessel;
 - .3 use only water from a US 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;
 - .4 employ an Alternate Management System (AMS) for up to five (5) years from the basic compliance date noted in §3.2.2 above or from the extended compliance date described in §3.5 below. After the five (5) year period, the AMS will need to be approved by the USCG or it may need to be replaced by a USCG-approved system; or
 - .5 discharge to a facility on shore or another vessel for the purpose of treatment.
- 3.2.3 If a ship is engaged in trade which takes it into the territorial waters of the US, the BWMP must be specific to each ship and address the following additional US requirements:
- .1 detailed biofouling maintenance procedures and procedures for the disposal of sediments at sea and to shore; and
 - .2 procedures for coordinating the shipboard BWM strategy with USCG authorities.

3.3 Ballast Water Management System

- 3.3.1 The USCG has type-approved a number of Ballast Water Management Systems (BWMS) which are listed on their website. Shipowners should review the details and limitations of the systems and determine whether they are suitable for use by their vessels. USCG type-approval will not affect vessels employing an AMS prior to their compliance date or with an existing compliance date extension. See §3.4 and §3.5 for details. A vessel with an IMO type-approved BWMS installed that is neither AMS-designated nor USCG type-approved, may not discharge ballast water treated by that BWMS in US waters. The vessel must use one (1) of the other approved BWM methods under 33 CFR 151.1510 or 151.2025, or obtain an extension to its compliance date
- 3.3.2 The USCG has issued [CG-CVC Policy Letter 18-02](#), that gives guidance on evaluating potential courses of action when a vessel destined for a US port has an inoperable BWMS. Particular attention should be given to the fact that the USCG advises its field units that ships should not receive special consideration for inoperable BWMS manufactured by a company that had filed for protection under bankruptcy laws. The Policy Letter applies to ships using a USCG-approved BWMS, or a BWMS accepted by

the Coast Guard as an AMS. It does not address situations where the inoperable BWMS is the result of an emergency situation caused by weather, vessel casualty, flooding, etc.

- 3.3.3 If a vessel is not required to have a USCG type-approved BWMS, the USCG will allow the Master, owner, operator, agent, or person in charge of a vessel that cannot practicably meet the BWE requirements of 33 CFR Subpart D, either because its voyage does not take it into waters 200 nm or greater from any shore for a sufficient length of time and the vessel retains ballast water onboard, or because the Master of the vessel has identified safety or stability concerns, to discharge ballast water in areas other than the Great Lakes and the Hudson River north of the George Washington Bridge.
- 3.3.4 For a vessel that is bound for the Great Lakes or Hudson River north of the George Washington Bridge and uses BWE to meet the requirements of 33 CFR Part 151, Subpart C and, due to weather, equipment failure, or other extraordinary conditions, is unable to effect a BWE before entering the US EEZ, and intends to discharge ballast water into the waters of the US, must request permission from the Captain of the Port (COTP) to exchange the vessel's ballast water within an area agreed to by the COTP at the time of the request, then discharge the vessel's ballast water within that designated area. Only the amount of ballast water operationally necessary for safety concerns may be discharged, followed by an entry in the ballast water records supporting the reasons why the vessel could not comply with the regulatory requirements.

3.4 Alternate Management System

- 3.4.1 Where foreign administrations have approved a BWMS under the BWM Convention, the manufacturer of that system may request the USCG to make a determination that the BWMS is an AMS.
- 3.4.2 AMS is viewed by the USCG as an alternative to BWE and as a temporary acceptance of a treatment system already type-approved with the BWM Convention. Therefore, although a BWMS may have received type-approval certification by other nations based on results from testing to the IMO applicable Standards, the BWMS must still gain US type-approval either by an equivalency determination or by additional testing under the US EPA ETV protocols to be employed more than five (5) years beyond the basic or extended USCG compliance schedule date. See §3.4.5, Guidance for AMS Use.
- 3.4.3 As provided in 33 CFR §151.2026 and [OES-MSIB 010/16, Rev. 1](#):
- .1 AMS must be installed on the vessel prior to the date that the vessel is required to comply with the Ballast Water Discharge Standard (BWDS).
 - .2 The AMS may not be employed for longer than five (5) years from the date the vessel would otherwise be required to comply with the BWDS.
 - .3 An AMS determination may be suspended, withdrawn, or terminated (see 46 CFR §162.060-18).

- .4 Once BWMS are type-approved by the USCG and available for a given class, type of vessel, or specific vessel, those vessels will no longer be able to install AMS in lieu of type-approved systems.
- 3.4.4 Vessels that choose to install a foreign type-approved BWMS which the USCG has accepted as an AMS, may not apply for an extension as explained in §3.5 below because such vessels are in compliance with USCG regulations.
- 3.4.5 Guidance for AMS use:
- .1 Vessels that have not reached their compliance date with an AMS installed may either conduct BWE or use the AMS. Once the compliance date is reached, the vessel must use the AMS.
 - .2 Vessels with a BWMS installation date extension and with AMS installed may use the AMS, or operate under the terms of the extension which could include BWE.
 - .3 Vessels without an extension or AMS may use BWE as a method for compliance with USCG regulations until they reach their USCG BWMS installation compliance date. Before reaching the installation date for a USCG type-approved BWMS, such vessels will need to request an extension or install an AMS; and, in the process, develop documentation as to why a USCG type-approved BWMS is not available or suitable for the vessel. See §3.5.

3.5 Extension of Compliance Date

- 3.5.1 In accordance with [CG-OES Policy Letter No. 13-01, Revision 2](#), 16 November 2015, the USCG may grant an extension to a vessel's original compliance date for approved BWM methods under the implementation schedule listed in 33 CFR §151.1512(b) or 33 CFR §151.2035(b). Extension requests are made electronically through email. Detailed guidance on extension applications can be found at <http://www.dco.uscg.mil/OES>. Click on **Ballast Water Management**.
- .1 Vessels that intend to retain ballast water on board when operating in US waters, or intend to discharge ballast water to a facility onshore or to another vessel for purposes of treatment need not apply for an extension.
- 3.5.2 An extension may be issued 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.
- 3.5.3 The USCG will grant extensions to a vessel's compliance date where the ship owner or ship operator can document that despite all efforts, compliance with the requirements is still not possible. This remains the procedure even with the recent BWMS type-approvals

by the USCG. Determinations for extensions will be made on a case-by-case basis. Extensions will still be granted if shipowners can show that USCG type-approved systems are not suitable for their vessel, or there is limited or no availability of the type-approved system or shipyard for installation. See USCG [NVIC 01-18](#) and Marine Safety Information Bulletins (MSIB) [OES-MSIB 14-16](#) and [OES-MSIB 003/17](#) for more details. Existing extensions and current use of an AMS are not affected by this type-approval. According to OES-MSIB 003/17, vessels with an AMS installed are not eligible for an extension as such vessels already comply with the regulations. However, vessels with an AMS installed that were granted an extension prior to publication of OES-MSIB 003/17 may use the AMS or conduct BWE or operate under other terms of the extension.

- 3.5.4 The USCG will grant an extension for no longer than the minimum time needed, as determined by the USCG, for the vessel to comply with the requirements in 33 CFR Subparts C or D. Requests for extensions should be made no later than 12-18 months before the scheduled implementation date (See 33 CFR §151.2036), taking into consideration that the USCG regards “original compliance date” as the implementation schedule listed in 33 CFR §151.1512(b) or 33 CFR §151.2035(b). If the USCG grants an extension for a vessel, the vessel owner/operator should plan operations to ensure the vessel will be in compliance at the vessel’s extended compliance date. While a supplemental extension may be requested, issuance of supplemental extensions should not be anticipated.

3.6 Reporting and Recordkeeping Requirements

- 3.6.1 The USCG requires vessels subject to the ballast water requirements, unless operating exclusively on voyages between ports or places within a single COTP Zone, to submit a ballast water report (*33 CFR §151.2060*) to the National Ballast Water Information Clearinghouse (NBIC), using methods specified at [NBIC's Web site](#).

- .1 Any vessel that is equipped with ballast tanks and bound for any other ports and places in the US, must submit the BW report, *US Ballast Water Reporting Form (33 CFR §151.2060)*, no later than six (6) hours after arrival at the port or place of destination, or prior to departure from that port or place of destination, whichever is earlier. An amended report is to be submitted before the vessel departs the waters of the US, or not later than 24 hours after departure from the port or place, whichever is earlier.
- .2 Any vessel bound for the Great Lakes from outside the EEZ must submit a BW report, *US Great Lakes Ballast Water Reporting Form (33 CFR §151.2060)*, at least 24 hours before the vessel arrives in Montreal, Quebec. Non-US and non-Canadian flagged vessels may complete the St. Lawrence Seaway Ballast Water Reporting Form, and submit it in accordance with the applicable Seaway notice as an alternative.
- .3 Any vessel bound for the Hudson River north of the George Washington Bridge entering from outside the EEZ must submit the BW report, by fax, to USCG

COTP, New York at +1 718-354-4249 at least 24 hours before the vessel enters New York, NY.

- 3.6.2 In accordance with 33 CFR §151.2070, the Master, owner, operator agent, or person in charge of a vessel bound for a port or place in the US is required to ensure the maintenance of written or digital records that include the information required to be reported by 33 CFR §151.2060 and required sediment information.

3.7 USCG Contacts and Information

The following links and email addresses should be used to contact the USCG directly for additional information about their ballast water program or with questions:

- .1 **General Information:** <http://www.dco.uscg.mil/OES>
- .2 **Compliance Questions:** E-mail the Office of Commercial Vessel Compliance: CGCVC@uscg.mil.
- .3 **Extensions:** environmental_standards@uscg.mil.
- .4 **NBIC:** website: <https://invasions.si.edu/nbic>.
- .5 **Approved Labs and BWMS:** Coast Guard Maritime Information Exchange (CGMIX) <https://cgmix.uscg.mil>.

4.0 Current EPA Requirements

4.1 General

- 4.1.1 Section 402 of the CWA (33 U.S.C. §1251 et. seq.) establishes the National Pollution Discharge Elimination System (NPDES) permitting program by which the EPA regulates discharges incidental to the normal operation of a vessel. These “incidental discharges” include a broad range of discharges such as ballast water, bilgewater, graywater, and deck washdown and runoff. Eventually, VIDA will amend this process.

- 4.1.2 The incidental discharges are controlled primarily through two (2) NPDES general permits:

- .1 the [Final 2013 VGP](#): applicable to commercial vessels greater than 79 feet in length with a capacity to hold or discharge more than eight (8) cubic meters (2,113 US gallons) of ballast water operating on the navigable waters of the United States, up to three (3) nm off the coast. The 2013 Final VGP is effective for a period of five (5) years from 19 December 2013 to 18 December 2018 when a revised VGP is expected to enter into force. (See [CG-543 Policy letter 11-01](#).); and

.2 the [Small Vessel General Permit \(sVGP\)](#): applicable to commercial fishing vessels and other non-recreational vessels less than 79 feet.

4.1.3 EPA, as a co-regulator of ballast water discharges with the USCG, has articulated its enforcement policy in a memorandum dated 27 December 2013 and entitled *Enforcement Response Policy for EPA's 2013 Vessel General Permit: Ballast Water Discharges and US Coast Guard Extensions under 33 C.F.R. Part 151*. This policy reflects the fact that under the CWA, EPA cannot recognize as USCG BWMS installation date extension. This creates a situation where vessels granted an extension by the USCG will technically be in violation of the CWA once the required installation date has passed. EPA policy is that this will be a low enforcement priority.

4.2 Regulation of Ballast Water under the VGP

4.2.1 The [Final 2013 VGP](#) contains numeric ballast water discharge limits for most vessels. The permit generally aligns with requirements contained within the 2012 USCG ballast water rulemaking. Additionally, the VGP contains requirements to ensure BWMSs are functioning correctly.

4.2.2 As a condition of the permit, all discharges of ballast water must also comply with applicable USCG regulations found in 33 CFR Part 151.

4.2.3 Additionally, owner/operators of all vessels subject to coverage under this permit which are equipped with ballast tanks must comply with any additional best management practices in this section. Discharges of ballast water may not contain oil, noxious liquid substances or hazardous substances in a manner prohibited by US laws, including §311 of the CWA.

4.3 EPA Contacts and Information

The following links and email addresses should be used to contact the USCG directly for additional information about their ballast water program or with questions:

VGP Program: <https://www.epa.gov/npdes/vessels-vgp>.

4.4 Individual US State Requirements

4.4.1 RMI-flagged vessel owners or operators must comply with coastal State requirements, including any regional or local requirements. This includes the requirements promulgated by individual states within the US See RMI Marine Notice [2-014-1](#).

4.4.2 Individual US state requirements are found in §6 of the Final 2013 VGP as well as on the websites of the state regulatory bodies with the authority to regulate ballast water discharges.