



PATRIOT MARITIME COMPLIANCE, LLC

18 February 2018

PMC CLIENT ADVISORY 03-2018

Subject: USCG Policy Letter - Inoperable Ballast Water Management Systems

To: All Clients

The Office of Commercial Vessel Safety (CG-CVC) has released CG-CVC Policy Letter 18-02, "Guidelines for Evaluating Potential Courses of Action When a Vessel Bound for a Port in the United States has an Inoperable Ballast Water Management (BWM) System."

Policy Letter 18-02 provides guidance to vessel Masters, owners, operators, agents, and persons in charge of vessels with ballast water treatment systems installed aboard that are subject to the ballast water management requirements found Title 33 of the Code of Federal Regulations (33 CFR 151 Subparts C and D). This means vessels with a U.S. Coast Guard Type Approved or U.S. Coast Guard Alternate Management System (AMS) system installed. This Policy Letter will be used by Coast Guard personnel when evaluating potential courses of action when a vessel destined for a U.S. port has an installed Ballast Water Management System (BWMS) that is inoperable.

This policy letter does not address situations where the inoperable BWMS is the result of an emergency situation caused by weather, vessel casualty, flooding, etc.

Highlights of the Policy Letter:

1. The U.S. Coast Guard reminds us that United States is not a party to the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and will not accept BWM Convention certificates as equivalent to U.S. domestic requirements. Therefore, vessels discharging ballast water into the waters of the U.S. must comply with the requirements of 33 CFR 151 Subparts C and D, as applicable, rather than the IMO's BWM Convention requirements.
2. Vessels with an inoperable BWMS that has not yet reached its compliance date may continue to exchange ballast water without additional notification to the Coast Guard Captain of the Port (COTP) or District Commander.
3. Vessels with an inoperable BWMS that has reached or passed their compliance date **MUST** report the inoperable system to the nearest COTP or District Commander **as soon as**

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- possible.** If the COTP at the vessel's next port of call is different from the nearest COTP, **both COTPs MUST be notified.** Using guidance provided in the vessel's BWM Plan, the person making the report should provide alternative BWM strategies available to the vessel.
4. The vessel must obtain approval from the COTP or District Commander at the US port of entry prior to exchanging ballast if the BWMS system becomes inoperable. The exchange, if approved, must take place at least 200 NM from the nearest land, as the route exemption allowed for vessels without BWMS will not apply. An alternative strategy that proposes the discharge of untreated ballast water into the waters of the U.S. will only be authorized for safety or stability concerns. This strategy should not be implemented unless authorization has been obtained by the COTP or District Commander.
 5. A lack of consumables which renders a system inoperable will not be considered an acceptable reason for the BWMS being inoperable. Vessel owners, operators, and Masters must ensure an adequate supply of BWMS consumables must be kept on board if bound for USA waters.
 6. Reports MUST be submitted directly to the Coast Guard's COTP or District Commander. Reports sent to the National Ballast Information Clearinghouse (NBIC) **will not** constitute notification. The NBIC is not a USCG unit and does not have the capability of notifying the Coast Guard of the vessel's BWMS failure.
 7. PMC recommends that the vessel follow up any request with a timeline that provides details on parts and service technical support required. While not required, more detailed requests get more favorable consideration. Vessels unable to provide these details may not be allowed to proceed to their next report until repairs are made.
 8. A vessel past its compliance date and reporting its BWMS as inoperable for the first time may be allowed to exchange its ballast water in lieu of using the BWMS, provided the COTP is notified in advance and the COTP agrees to allow the ballast water exchange. Absent safety or stability concerns, the exchange must occur in area 200 miles from any shore.
 9. Secondary and subsequent requests will receive increased scrutiny. The Coast Guard will consider a variety of factors, including the operating history of the vessel, the operating history of its BWMS, the training provided to the members of the crew who operate and maintain the BWMS, and the possibility of the system being repaired during the vessel's port visit. The Coast Guard will validate:
 - a. The date of the most recent BWMS repair;
 - b. The date and location of when the BWMS was last operable; and,
 - c. Crew training records demonstrating competency in the operation and maintenance of the BWMS.
 10. All repair proposals will be evaluated like any other repair proposal submitted to the Coast Guard. After reviewing the proposal, the COTP may accept the work as proposed or suggest changes to the proposal that would make it more reasonable.
 11. If the vessel has additional scheduled port calls in the U.S. prior to sailing foreign, the COTP may allow the vessel to continue its voyage if the repairs will not be completed prior to departing the original COTP's zone. Any deficiency issued by the COTP would identify whether the vessel must perform a ballast water exchange between ballast water discharge events. The original COTP would coordinate with other COTPs or District Commanders where the vessel intends to travel.
 12. The Coast Guard will issue a deficiency, which will be recorded in its MISLE database, along with a Special Note that will flag the deficiency for two years.



Note: The U.S. Coast Guard will not give special consideration to a vessel with an installed BWMS whose manufacturer is in bankruptcy proceedings.

PMC highly recommends that our client's vessels test their BWMS system well in advance of arrival into to the U.S. EEZ to allow for reporting and permission to exchange ballast water of case system failure. We also recommend logging the successful test of the system to demonstrate due diligence.

The Coast Guard highly encourages vessels to use their BWMS regularly, even if not bound to or departing from the United States. They report that some operators only use their systems when travelling to and from the USA. It is their posture that in order for the systems to operate reliably, BWMS must be used regularly by crews trained to use the system. They maintain that regular usage improves crew operational knowledge of the BWMS, thereby improving the BWMS' reliability.

Please [contact our office](#) if you have any questions for PMC.

Yours Truly,



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President