

# GMS

Gallagher Marine Systems

26 February 2017

Client Advisory – #06-17

## Focused & Strict Enforcement of 33 CFR 151 Parts C & D US Ballast Water Discharge Regulation

### Overview:

The US Ballast Water Discharge Regulation was published in the Federal Register in 2012 and requires that, by a certain date as stipulated in 33 CFR 151.2035, vessels observe and practice approved Ballast Water (BW) Management Practices for discharges made in US Waters. Since the late 2016 Coast Guard Type Approvals of three Ballast Water Management Systems, we have observed focused and strict enforcement of the regulation including deficiencies at Port State Control (PSC) examinations, recommendations for civil penalties, and permission requests denied for ballast water discharges under extraordinary circumstances with the possibility of negatively affecting cargo operations.

### Background:

As discussed in previous Advisories, the BW regulation requires all ships to observe approved BW management practices for discharging ballast into US Waters. The approved practices are:

- Manage BW discharges using a US Coast Guard Type Approved BWMS;
- Manage BW discharges using a BWMS that has been approved by the USCG as an Alternate Management System (which may be used for 5 years);
- No discharge of BW into Waters of the US (inland waters out to 12NM from the Baseline);
- Dispose of BW using an approved shore facility;
- Ballast (and subsequently discharge) with fresh water taken on from a US-sourced potable water supply.

During PSC examinations, the U.S. Coast Guard (USCG) is checking for discharges in compliance with one of the approved practices described above. They have been examining BW logs back to the vessel's compliance date looking for BW discharges made in US waters without following one of the above practices or under the coverage of an approved extension. If discovered, a deficiency is issued and if the present pattern holds true, the matter is taken to the civil penalty stage. Depending on the vessel's past operational pattern and previous discharges in US port calls, it is possible to receive a count for each case of an illegal discharge made since the vessel's compliance date.

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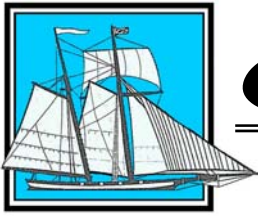
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## **Extended Compliance Dates:**

As a reminder, the USCG's policy on granting extended compliance dates changed with the Type Approval of three different BWMS. The policy change was announced by Marine Safety Information Bulletin No. 14-16 dated 02 Dec 2016 and discussed in our Client Advisory No. 16-16 of 22 December 2016. It is still possible to obtain an extended compliance date but the burden of justifying such a request has increased dramatically. If you are contemplating submitting an application for an extended compliance date, we encourage you to review this information first.

## **Discharge of Ballast Water Under Unusual Circumstances:**

As stated in 33 CFR 151.2040, if an installed BWMS stops operating properly during a voyage, or the vessel's BWM method is unexpectedly unavailable, the person directing the movement of the vessel must ensure that the problem is reported to the nearest USCG Captain Of The Port (COTP) or USCG District Commander as soon as practicable. The vessel may continue to the next port of call, subject to the directions of the COTP or District Commander. The USCG may allow the use of an alternate means of compliance or possibly prohibit the discharge of BW in the port.

## **Actions:**

Ship Managers should carefully review the compliance status of each of their vessels. They should ensure that each vessel that calls a port under U.S. jurisdiction either complies with one of the approved BW management methods or is covered by an extended compliance date, with a copy of the letter kept aboard the vessel. If out of compliance BW discharges were made after the vessel's compliance date, you should expect to receive deficiencies and possibly a civil penalty. Also, be aware that if a ship is proceeding to or enters a US Port unable to comply with one of the approved BW management methods and has not received approval for an extended compliance date, you will need to inform the COTP and seek permission for *Discharge of Ballast Water Under Unusual Circumstances* as described in 33 CFR 151.2040 as soon as possible.

## **Useful Hyperlink Related to this Advisory:**

- USCG "Homeport" website:
  - <http://homeport.uscg.mil/ballastwater>

If you should have any questions or need of assistance, please do not hesitate to contact GMS via our general email account: [info@chgms.com](mailto:info@chgms.com).

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**END OF ADVISORY**

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