

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG–2019–0477]

#### Draft Policy Letter on the Coast Guard's Process To Accept Proposed Type-Approval Testing Protocols for Ballast Water Management Systems (BWMS) That Render Organisms in Ballast Water Nonviable

**AGENCY:** Coast Guard, DHS

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Coast Guard announces the availability of a draft policy letter that establishes the Coast Guard's proposed acceptance of type-approval testing protocols for BWMS that render nonviable (meaning "permanently incapable of reproduction") organisms in ballast water and may be used in addition to the methods established under existing regulations; the process for accepting type-approval testing protocols for BWMS, if any, that render nonviable organisms in ballast water and may be used in addition to the methods established under existing regulations which includes: The process for incorporating accepted protocols into the type-approval procedures established under existing regulations; the acceptance of laboratories to evaluate applicable treatment technologies; and the certification of BWMS that render nonviable organisms in ballast water. This notice solicits public comments on the draft policy letter that is entitled TYPE APPROVAL METHODS FOR BALLAST WATER MANAGEMENT SYSTEMS THAT RENDER NONVIALE ORGANISMS IN BALLAST WATER, hereinafter referred to in this notice as the "draft policy letter."

**DATES:** Comments must reach the United States Coast Guard (USCG) by September 30, 2019.

**ADDRESSES:** To view the draft policy letter, as well as documents mentioned in this notice, go to <http://www.regulations.gov>, type "USCG–2019–0477", and click "Search." Then click the "Open Docket Folder."

**FOR FURTHER INFORMATION CONTACT:** Mr. Matthew Reudelhuber, Environmental Standards Division, 202–372–1432.

#### SUPPLEMENTARY INFORMATION:

##### I. Abbreviations

BWMS Ballast Water Management System  
 CATEX Categorical Exclusion  
 CFR Code of Federal Regulations  
 DHS Department of Homeland Security

FR Federal Register  
 NEPA National Environmental Policy Act  
 U.S.C. United States Code  
 USCG U. S. Coast Guard  
 VIDA Vessel Incident Discharge Act of 2018

##### II. Public Participation and Request for Comments

We encourage you to submit comments on the draft policy letter which is available in the docket. The draft policy letter is also available on the USCG website: <http://www.dco.uscg.mil/OES/Viability-Policy-Letter/>. We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If you cannot submit your material by using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section for alternate instructions. Documents mentioned in this notice, and all public comments, will be available in our online docket at <https://www.regulations.gov>, and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

##### III. Background

The Vessel Incident Discharge Act of 2018 (VIDA) found at Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018, Public Law 115–282, amended Section 312(p) of the Federal Water Pollution Control Act (33 U.S.C.1322). Pursuant to VIDA, the Coast Guard<sup>1</sup> is required to publish for review and comment a draft policy letter, based on the best available science, describing type-approval testing methods and protocols for BWMS, if any, that—

(I) Render nonviable organisms in ballast water; and

(II) May be used in addition to the methods established under subpart 162.060 of Title 46, Code of Federal Regulations (or successor regulations)—

(aa) To measure the concentration of organisms in ballast water that are capable of reproduction;

<sup>1</sup> In DHS delegation 0170.1, the Commandant of the Coast Guard was delegated the authority to carry out the functions in section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.*) as amended by the Oil Pollution Act of 1990.

(bb) To certify the performance of each BWMS under this subsection; and

(cc) To certify laboratories to evaluate applicable treatment technologies.

##### IV. Environmental Aspect and Impact Considerations

a. The development of this draft policy letter and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, Commandant (CG–47). This draft policy letter is categorically excluded under current Department of Homeland Security (DHS) categorical exclusion (CATEX) A3 from further environmental analysis in accordance with the U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1 and the Environmental Planning (EP) Implementing Procedures (IP).

b. This draft policy letter will not have any of the following: Significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policy in this draft policy letter must be individually evaluated for compliance with the National Environmental Policy Act (NEPA) and Environmental Effects Abroad of Major Federal Actions, Executive Order 12114, Department of Homeland Security (DHS) NEPA policy, Coast Guard Environmental Planning Policy, and compliance with all other applicable environmental mandates.

##### V. Paperwork Reduction Act

Before issuing a final policy letter, the Coast Guard will determine if the final policy calls for a new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501.

##### VI. Public Availability of the Draft Policy Letter

The Coast Guard developed this draft policy letter in coordination with the EPA pursuant to 33 U.S.C. 1322(p)(6)(D)(ii). The draft policy letter may be amended by the USCG, in coordination with the EPA, based upon public comment on this **Federal Register** notice.

Dated: July 26, 2019.

**Sean. T. Brady,**  
 Captain, Environmental Standards Division.  
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