

from numerous sources. This question is outside the scope of the FEA, and in keeping with CEQ regulations for conducting FEAs, the extensive supporting information is not repeated here.

One commenter asked for clarification regarding the statement "Small percentages of estuarine areas in the ports of interest were rated 'poor' \* \* \*".

The commenter asked if it would be possible to avoid discharging in these areas, or to list which ports have poor light conditions. The commenter also asked what was meant by the description "small percentages".

The Coast Guard has determined that the areas that are rated as poor for light conditions are rated so due to the natural ambient condition of glacial till suspended in the water. While it could be possible for the CORAL PRINCESS to restrict its ballasting locations, the Coast Guard disagrees with the need to do so in these or any other areas. The very small volumes of water which could potentially be discharged during operation of the ship's BWMS have been considered and determined negligible. "Small percentages" refers to the waters in the immediate vicinity of glacier termini.

One commenter stated that the environmental consequences are generalized across all regions, with little to no specific reference to any of the previously described discharge ports. The commenter asked that specific examples of environmental consequences for the various habitats/ports be provided.

The Coast Guard has determined that the water quality impacts on the ballast water taken aboard the CORAL PRINCESS will be negligible; therefore, generalization of the environmental impacts invalid. The addition of repetitive specific impacts in effected ports would unnecessarily lengthen the FEA. Based on the service history of the CORAL PRINCESS, most ballasting is done at sea and is in small amounts. When harbor water is intentionally pumped aboard for the tests, it will also be discharged at sea following treatment. The proposal does provide for the CORAL PRINCESS to use the Ballast Water Management System as needed and occasionally a need to ballast in a port area may be encountered. However, the Coast Guard considers the potential for any adverse effects from ballasting, filtering, treating with ultraviolet light and discharging relatively small quantities of sea water back to its source to be negligible for all potential discharge locations. As a result of the NEPA process, the only known impacts are a slight beneficial impact on

biological resources and socioeconomic resources. Therefore, further describing habitat or location specific impacts is not necessary.

One commenter asked what references and/or data were used to support the conclusions about water quality impacts of the proposed action alternative.

The Coast Guard has used the following rationale for the description of likely impacts of using the system. The ship normally takes on and discharges ballast at sea. In these cases, typically there are fewer organisms in offshore waters compared to estuarine areas, and hence less organic matter to be taken aboard, treated and discharged. Similarly in the cases where the ship may take on and discharge ballast in port, the use of the treatment system should have no measurable adverse effects on the water quality of the ecosystem where the ballast water is discharged.

One commenter asked how nonindigenous species impact low income and minority populations under the no action alternative.

The Coast Guard has determined that an example of a potential impact to a low income or minority population might be that a decline in abundance of a species targeted by subsistence fisheries could occur as a result of the introduction of nonindigenous competitors, predators, or pathogens. Please refer to the STEP Programmatic Environmental Assessment that also evaluated the impacts to low income and minority populations.

Based on the information provided in the DEA, one commenter stated that the STEP program meets their environmental standards, and is not likely to adversely affect federally listed threatened or endangered species under their jurisdiction.

The Coast Guard acknowledges the comment and support for the CORAL PRINCESS and the STEP application.

*Final Environmental Assessment:* The Final PEA for the STEP identified and examined the reasonable alternatives available to evaluate novel ballast water management systems for effectiveness against NIS transportation by ships' ballast water.

The FEA for acceptance of the CORAL PRINCESS into the STEP, and the subsequent operation of the experimental treatment system, analyzed the no action alternative and one action alternative that could fulfill the purpose and need of gaining valuable scientific information on the system's efficacy and facilitating the development of effective treatment technologies capable of preventing the

transportation of NIS in ships' ballast water. Specifically, the FEA for the CORAL PRINCESS acceptance into the STEP is tiered off of the PEA for the STEP, and considers the potential impacts to the environment from the operation of the treatment system on the CORAL PRINCESS by examining the functioning of the system, the operational practices of the vessel, and the potential effects on discharge water quality.

This notice is issued under authority of the National Environmental Policy Act of 1969 (Section 102 (2)(c)), as implemented by the Council of Environmental Quality regulations (40 CFR parts 1500–1508) and Coast Guard Commandant Instruction M16475.1D.

Dated: November 21, 2008.

**Brian M. Salerno,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.*

[FR Doc. E8–28473 Filed 11–28–08; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG–2007–0041]

### Application for the Integrated Tug and Barge MOKU PAHU, Review for Inclusion in the Shipboard Technology Evaluation Program; Final Environmental Assessment and Finding of No Significant Impact

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Coast Guard announces the availability of the Final Environmental Assessment (FEA) and Finding of No Significant Impact (FONSI) that evaluated the potential environmental impacts resulting from accepting the integrated tug and barge MOKU PAHU into the Shipboard Technology Evaluation Program (STEP). Under the STEP, the MOKU PAHU will be using, and testing, the Ecochlor™ Inc. Ballast Water Treatment System (BWTS) as the vessel operates in U.S. waters.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, are part of the docket USCG–2007–0041. These documents are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey

Avenue, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can also find all docketed documents on the Federal Document Management System at <http://www.regulations.gov>, United States Coast Guard docket number USCG–2007–0041.

You may submit comments identified by docket number USCG–2007–0041 using any one of the following methods:

(1) *Federal eRulemaking Portal*: <http://www.regulations.gov>.

(2) *Fax*: 202–493–2251.

(3) *Mail*: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery*: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this assessment please contact LCDR Brian Moore at 202–372–1434 or e-mail:

[brian.e.moore@uscg.mil](mailto:brian.e.moore@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** This document has been tiered off the Programmatic Environmental Assessment (PEA) for the STEP dated December 8, 2004 (69 FR 71068, Dec. 8, 2004), and was prepared in accordance with the National Environmental Policy Act of 1969 (Section 102(2)(c)), as implemented by the Council of Environmental Quality regulations (40 CFR parts 1500–1508) and Coast Guard Commandant Instruction M16475.1D. From these documents, the Coast Guard has prepared a FEA and FONSI for accepting the MOKU PAHU into the STEP.

**Response to Comments:** The Coast Guard requested comments on the Draft Environmental Assessment (DEA) when the Notice of Availability and Request for Public Comments was published in the **Federal Register** on April 4, 2008 (73 FR 18545, Apr. 4, 2008). The Coast Guard received 57 substantive comments from 5 agencies. The Coast Guard has responded to all of the comments that were within the scope of the DEA.

One commenter asked for clarification regarding the statement “\* \* \* treatment system is expected to have no

impact on water quality, biological resources \* \* \*”. The commenter asked how there could be no impacts when older residuals (biocides) will be released. The commenter suggested replacing the word “no” impacts with either “minimal” or “negligible” impacts.

The Coast Guard disagrees with the suggestion the phrase “no impact” should be changed. This section deals with coastal barrier systems and is only focused on the effects use of the BWT system may have on coastal barrier systems. The Coast Guard recommends the commenter to section 4.2, Water Quality, of the FEA for discussion of the water quality impacts.

One commenter stated that section 2 should state that if the Ecochlor™ system is denied acceptance into the STEP, the vessel will continue to manage ballast water (BW) through exchange, as safety allows, and species will continue to be discharged.

The Coast Guard disagrees. The PEA and this FEA clearly state that if the Ecochlor™ system is denied acceptance into the STEP the applicant will be subject to all applicable ballast water management regulations.

One commenter asked if a vessel would be free to discharge ballast treated by the experimental system (exchange would not be required), and if this would be in compliance with all Coast Guard ballast water management requirements.

The Coast Guard disagrees that further change is needed. Both in the PEA and in this FEA, under Alternative two, it is clearly stated that STEP acceptance for vessels’ ballast operations means under this alternative the regulations provide that the vessel is free to discharge ballast water treated by the experimental treatment system into U.S. waters as operations dictated. The discharge of ballast treated by the system would be in compliance with all Coast Guard ballast management requirements.

One commenter requested a basic diagram displaying the location of the treatment system and/or a diagram of the treatment system.

The Coast Guard agrees that a diagram is helpful for describing the system, and has added one to the FEA.

One commenter asked how much “sufficient flow” would be necessary to activate the treatment system. The commenter also asked how long this would take during uptake, and how much ballast water will pass by untreated before treatment begins.

The Coast Guard has determined that specific description of the Ballast Water Management System (BWMS) flow rates

and times are not necessary. To address the concern that some water will pass by the treatment cell prior to activation of the chlorine dioxide (ClO<sub>2</sub>) dosing system, the system dosage is designed to produce an initial killing action when it is injected into the uptake stream.

However, it is also designed to provide a residual biocide effect in the ballast water while it is stored on board in the tanks. As the ClO<sub>2</sub>, chlorite, and chlorate degrade during the ballast voyage, continued biocidal effects should be realized. According to lab tests, a period of up to five days is usual before reaching the non-detect level for ClO<sub>2</sub>. This residual is believed to be adequate to treat the initial volume of water taken aboard prior to full activation of the treatment system.

Verification of this residual efficacy is a primary component of the testing plan. It should also be noted that untreated BW will be discharged. A requirement of the STEP is that the system be used to manage all BW. If the system is inoperable for any reason then compliance with current regulations is required.

One commenter requested examples of the accuracy and precision related to the target final concentration of the automated system (*i.e.*, does it produce a 5.0 ppm concentration every time or is there some variation involved).

The Coast Guard has determined that the initial dosage values that have been proposed by the applicant are based solely upon laboratory results using validated Environmental Protection Agency (EPA) methods. The STEP program is intended to provide the sort of detailed information requested by the commenter. As of now only laboratory values have been established. Physical and chemical analysis of the treated ballast water, as well as gathering actual shipboard data of dosing parameters are primary goals of the STEP. As discussed in the PEA and this FEA, one of the uses of this data collection and analysis effort will be to inform a regulatory framework for a Ballast Water Discharge Standard, which is the subject of a separate rulemaking. At that time, the data from the STEP will be made available in the associated environmental impact statement (EIS).

One commenter asked if salinity contributed to the degradation of ClO<sub>2</sub>. The commenter also asked if the salinity levels in the Carquinez Strait are similar to the water in Oakland Harbor.

The Coast Guard has determined that salinity is an inconsequential factor in the ClO<sub>2</sub> degradation process. Data show that the degradation reaction is driven by available oxidation reaction materials—organic compounds such as

cell walls of microorganisms, are highly favored for this reaction. Since salinity is not relevant to the performance of the system under evaluation, the data requested are outside the scope of this project.

One commenter requested experimental support or actual measurements, to support the assumption that any remaining  $\text{ClO}_2$  discharged would likely decay quickly, due to the temperature of the receiving waters. The commenter also requested that the definition of "decay to extinction quickly" be provided.

The Coast Guard has determined that laboratory and field test results have been presented by the applicant, and were part of the technical review for establishing that the system has a reasonable chance of meeting STEP efficacy requirements. The degradation of  $\text{ClO}_2$  to its ultimate fate as chloride is driven largely by the availability of organic matter, but additional degradation energy comes from the ultraviolet component of light as well as heat (available from the receiving seawater). The applicant has provided data which demonstrate the impact of water temperature upon the degradation rates of the treatment chemicals. In most cases, the laboratory data show a decay to the non-detect level of the treatment chemicals to occur within five days. While dilution values can be determined, actual degradation rates for the remaining residuals are not known. However, since none of the biocide residuals are considered to be persistent in the environment, the Coast Guard is confident that their impact once discharged from the vessel will be negligible.

One commenter asked if data was collected to determine chlorite half life for source water or Hawaii receiving water.

The applicant has provided the Coast Guard with treatment efficacy and residual degradation rate data that was collected using source waters from San Francisco Bay. The data show degradation properties similar to those for East Coast waters. The applicant has not proposed, and the Coast Guard is not authorizing, the uptake of Hawaiian water for treatment with the experimental system. Therefore, the effects of treating Hawaiian waters are beyond the scope of this project.

One commenter requested an explanation as to why chlorite dissipates at different rates for Newark and Baltimore at similar temperatures. The commenter also asked if there were EPA standards for chlorite in discharged waters, and if chlorite impacts

organisms in a similar manner to chlorine.

The Coast Guard does not have the information requested by the commenter regarding dissipation rates for Newark and Baltimore; however, we do not believe it is necessary for making a decision about STEP acceptance. There are no specific standards for discharge of  $\text{ClO}_2$  or its degradation products in marine waters. While both chlorite and chlorine are biocides, chlorite has distinctly different properties than chlorine. Ample information on the toxicity of chlorine is readily available, but is not discussed in this FEA since it is outside the scope of the process under evaluation.

One commenter requested data to demonstrate compliance with applicable discharge standards. The commenter asked if either EPA or the State of Hawaii had established discharge standards for  $\text{ClO}_2$  or its degradation products in marine waters. The commenter also asked if there are any lab/land-based tests that show residual concentrations from the Carquinez Strait source water.

The Coast Guard has determined that there are no known state or Federal standards for discharge of  $\text{ClO}_2$ , or its degradation products into marine waters. There are laboratory data for the degradation rate of  $\text{ClO}_2$  in water from Carquinez Straits. These results are in line with the values cited from East Coast port water samples.

One commenter asked how much sodium sulfate is produced in the chemical reaction and what kind of impacts (if any) the chemical has on receiving environments.

The Coast Guard has received sulfate concentration data from the applicant. The Ecochlor™ system is expected to introduce ~5 ppm sulfate into the environment. Sulfate is a common constituent of seawater with typical concentrations of ~2600 ppm. The impact of this additional load is expected to be negligible.

One commenter stated that the description of San Francisco Bay's wetlands and wildlife was confusing. They stated that the section on "Plants and Wetlands" does not cover any of the information about the bay's wetlands, and that it was unclear why a detailed coverage of the bay's bird species is included. The commenter also asked for a range of water depths in Carquinez Strait.

The Coast Guard disagrees with the commenter's statement that the description for San Francisco Bay is inadequate. The scope of the FEA is to determine potential impacts from use of the BWMS. Since ballast water will be

taken onboard, as cargo is off loaded in Crockett, California, regardless of the decision on STEP acceptance, the only possible impact in the San Francisco Bay area is the potential for additional air emission as a result of using the system. Since air emissions were the focus of potential impacts, this FEA placed an emphasis on bird species in the area. The air emissions associated with the use of this system have been thoroughly researched and as a result air quality was dismissed from further consideration. No ballast water, treated or untreated, is carried to or discharged in California. Since this vessel will be taking on ballast water from the dock in Crockett, California, regardless of STEP enrollment, the Coast Guard disagrees that detailed descriptions of water depths in the Carquinez Strait can provide any additional useful information to decisionmakers about the impact of accepting the vessel into the STEP.

One commenter stated that the delta smelt is endangered, not threatened.

The Coast Guard disagrees with this comment. Information provided by the U.S. Fish and Wildlife Service (FWS) indicates the species is listed as threatened, and that the service has been petitioned to reclassify the species as endangered, but this process is not complete.

One commenter asked if there was any Essential Fish Habitat (EFH) specific to the Carquinez Strait area.

The Coast Guard refers the commenter to section 3.1.1 of the DEA where the EFH of the greater San Francisco Bay was identified. Because of other formatting changes however, this information is now in Section 3.2.1 of the FEA.

One commenter asked if there were any other important invertebrates not associated with coral reefs.

There are other important invertebrates not associated with coral reefs. The Coast Guard has taken into account in the FEA potential impacts on numerous organisms. The STEP is designed to protect all organisms from threats posed by nonindigenous species (NIS) introduced via BW.

One commenter asked how many of the FWS listed species are aquatic, and how many are marine.

The Coast Guard has updated the section in question. Of the known introduced species, 343 are marine aquatic. Further, three threatened and endangered listed organisms are marine aquatic species.

One commenter asked how many native macroalgal species there are in Hawaii in comparison to the 19 NIS listed in this document. The commenter

also asked what native benthic species are being out-competed.

The Coast Guard acknowledges these questions, but disagrees that the requested information is necessary to make a decision about STEP acceptance. The purpose of the National Invasive Species Act (NISA), and by extension STEP, is to protect indigenous species from the threats posed by NIS.

One commenter asked if there was additional information available from the San Francisco Bay Regional Water Quality Control Board for the water quality description section of the FEA.

Absent a specific concern, the Coast Guard disagrees that further description of the San Francisco Bay area is necessary to make a decision about STEP acceptance. However, the commenter is directed to the Web site for the San Francisco Bay Regional Water Quality Control Board for additional information: <http://www.swrcb.ca.gov/rwqcb2>.

One commenter requested the salinity range of the Carquinez Strait. The commenter also asked if there were any outfalls near the C&H refinery that could affect water drawn into ballast tanks.

While it is unclear what specific concern is being addressed by the comment, the Coast Guard does not believe that the requested information is necessary to make a decision about STEP acceptance. Data provided by the applicant indicate that salinity values do not influence the biocide characteristics, which are of interest to the STEP. Data on specific outfalls near the dock used by the vessel were not provided. However, if the concern is that the vessel could be moving poor quality water from California to another location, the vessel will do that regardless of STEP acceptance. If the concern is that the poor quality water may have a detrimental effect upon the treatment efficacy, answering that question is precisely the purpose of the STEP.

One commenter stated that the first two sentences in section 3.2.2 "Hawaii", contradict each other. The commenter asked for determination if surface runoff affects the quality of coastal water.

The Coast Guard disagrees that the paragraph is inconsistent. While water quality is deemed good by the cited source, the Coast Guard agrees with the State of Hawaii's statement acknowledging that threats to maintaining coastal water quality include polluted surface runoff.

One commenter asked what the chlorophyll (Chl) concentrations were. The commenter also asked what the standard Chl concentrations were.

The requested information is beyond the scope of the FEA. The questions address the characterization of the environment by the State of Hawaii and the requested increased detail is not necessary for evaluating the potential effects of operating the BWMS on the vessel.

One commenter asked for clarification regarding the statement " \* \* \* chlorine dioxide quickly breaks down in air \* \* \* ". The commenter asked what the chlorine gas breaks down into, and what the effects of these breakdown products were. The commenter also asked what effects might be expected to the crew, especially in enclosed areas exposed to these gases repeatedly over time.

None of the degradation pathways for chlorine dioxide include formation of elemental chlorine ( $\text{Cl}_2$ , a gas at normal temperature); the end product of degradation is chloride ion ( $\text{Cl}^-$ ), a harmless and ubiquitous component of seawater. Safety of the crew is paramount and has been addressed in section 4.3.2. of the FEA. Further, the safety aspects of the BWMS have been thoroughly vetted by appropriate authorities, to include, Coast Guard, Class society, and corporate management.

One commenter stated that the potential impact of chlorite appears underestimated in the DEA, and the toxicity of chlorite was not mentioned in the document. The commenter stated that according to <http://www.pesticideinfo.org> chlorite causes serious sublethal effects including carcinogenicity, and reproductive, developmental, and neurological toxicity. The commenter suggested that it is inadequate to only examine the  $\text{LC}_{50}$  of chlorite, because  $\text{LC}_{50}$  is too extreme of an endpoint to determine whether or not the biological resources will be impacted. The commenter also suggested that the EPA compiled toxicity data does not adequately represent the target.

Based on the extended residence times that the biocide will be stored in the vessel ballast tanks, the Coast Guard believes that all treatment residues will have degraded to levels sufficiently safe for discharge for the purposes of making a decision about STEP acceptance. Physical and chemical analysis of the treated ballast water, as well as gathering actual shipboard data, are primary goals of the STEP.

One commenter stated that the link for the EPA Aquire (Addendum F) was broken, and that these previous studies need to be properly referenced. The commenter also stated the table is not reader friendly, and it is unclear whether the algae species tested were

not affected by chlorite exposure because chlorite is not toxic to algae, or because the concentrations administered were too low. The commenter recommended that the table should be amended to include the administered concentrations, so concentrations can be compared to the other listed studies.

The Coast Guard was not able to replicate the difficulty locating or opening the EPA Aquire database. As users of the data the Coast Guard is not the appropriate agents for making changes to an EPA work product. The determination to include the vessel with the proposed treatment system is supported by the data showing that ambient algae are not likely to be affected by chlorite residuals in the concentrations presented by the applicant. At planned dosing concentrations chlorite is toxic to algae and that is why it is used to sterilize the ship's ballast water. However, based on the degradation rates shown from the laboratory studies, the chlorite concentration levels expected at time of discharge are believed to be too low to have an adverse affect on ambient algae. Since the evaluated dosages include the expected maximum discharge concentrations, the negligible impact conclusion is supported. The administered concentrations are in section 4 of the FEA and Appendix E. The values presented there can be compared with the values listed in the EPA table (Appendix F).

One commenter requested clarification regarding the statement " \* \* \* highly organic environments \* \* \* ". The commenter suggested that it was unclear whether dissolved organic material or particulate, organic material or both is being referenced.

The Coast Guard has reviewed the data provided by the applicant regarding the source water quality, the characterization of which is summarized in the FEA. Whether organic material is dissolved or particulate, it plays a role in the degradation of the biocide.

One commenter stated that both of these semi-closed harbors (especially Kahului in Hawaii), are likely to have long residency periods. The commenter asked if there was any information available regarding the residency times of the water in these harbors.

The system manufacturer has not provided the Coast Guard with any information about harbor water residency times (for the chemical residuals associated with this system). However, the Coast Guard believes that based on the non-persistent nature of the  $\text{ClO}_2$  and the long residence time

associated with this vessel's voyages, that the amount of residual available for discharge is negligible and should not present an accumulation hazard.

One commenter requested further information regarding the local planktonic communities. The commenter also asked which of the planktivorous species belong to this group and if there were any important fish that would be impacted.

The Coast Guard agrees with this comment and has expanded the environmental characterization of Hawaii to include more discussion of plankton in the two cited harbors.

One commenter stated that the discharges can potentially have chlorite concentrations (1–3ppm) six times greater than the LC<sub>50</sub> for two of the test organisms, *Daphnia* and *Americamysis* (>0.5 ppm). The commenter also stated that the *Daphnia* is a freshwater organism, but could the results of the *Americamysis* tests represent potential impacts of local organisms in these harbors.

The Coast Guard has determined that characterization of actual discharge concentrations of treatment residuals is a primary component of the STEP. If actual values exceed what has been provided from the laboratory test results, a further evaluation of use of the system will be undertaken and revision or disenrollment in the STEP may be necessary.

One commenter asked if the two species *Daphnia* and *Americamysis* could be representative of a larger group of animals that may be negatively impacted by chlorite, if those species happened to be present at the point of discharge.

The Coast Guard has used the EPA data to make the negligible impact decision based upon the lack of toxicity on the most sensitive plankton species once a dilution value of 12 percent (whole effluent toxicity) is achieved. This value is expected to be reached virtually instantaneously upon discharge of the water from the vessel regardless of what the residual concentration value was.

One commenter stated that whether the BWTS is used or not, the total organic content of the San Francisco Bay's water would be much greater than that of open ocean water (if an exchange were conducted instead). The commenter also asked how the killing of the organisms removes the organic content of the water.

Absent a specific request for further detail, the Coast Guard believes that the document is sufficient for the intended purpose. The settling of killed organisms to the bottom of the ballast

tanks, as stated in section 4.2.2, may result in less organic material being discharged than would occur if the untreated organisms were still swimming about in the water column.

One commenter asked what the difference in pH was between the typical Carquinez Strait water and the water found in the two Hawaiian harbors. The commenter also asked what causes the drop in pH (by <0.6 units) and why is it said to happen "sometimes" and not all of the time?

The specific detail requested in both questions is not known by the Coast Guard and was deemed unnecessary based on the type of activity involved and the de minimis volume of seawater being transferred and discharged into the harbor. The effects of using the experimental system onboard a ship and the potential for fostering corrosion in the ballast tanks is of specific interest to the applicant and will be closely monitored. Further, the vessel would be discharging water whose origin was outside the harbor regardless of the method of ballast water management used.

One commenter stated that the sentence " \* \* \* the discharge pH will still generally be near neutrality \* \* \* not likely pose a significant negative impact.", was misleading. The commenter stated that the discharged water would still be neutral, does not mean that it will not likely pose a negative impact. The commenter stated that the neutrality of the water has nothing to do with whether a particular organism adapted to a specific pH range will be affected; the relative change of the pH is what is important, especially when dealing with corals.

The Coast Guard disagrees that this sentence is misleading. The discharge of the small quantities of water is not likely to have any impacts on those organisms even in the most immediate vicinity of the vessels discharge outlet during ballast water discharge. The dilution effects of mixing ballast water with ambient seawater will be nearly instantaneous. The vessel will only be discharging adjacent to a man-made shipping pier within the confines of a dredged and maintained shipping channel. Any potential impacts associated with the proposed action will be vastly overwhelmed by these regular maintenance practices, which are described in section 3.2.2.

One commenter asked that a citation be included for the phrase "existing research indicates levels of chemicals are negligible \* \* \*".

The applicant's initial laboratory testing provided with their application, shows that the chemical levels will be

negligible (Nautilus 2007). Physical and chemical analysis of the treated ballast water, as well as gathering actual shipboard function data, are primary goals of the STEP.

One commenter asked if chlorine dioxide breaks down in air into chlorine gas.

The Coast Guard has determined that none of the breakdown pathways for chlorine dioxide in air result in formation of elemental chlorine (Nautilus 2007).

One commenter stated that there was no prior explanation of the term "type-approval" and that the word should either be explained or altered.

The Coast Guard has clarified the meaning of the phrase.

One commenter stated that it would be useful to have a description of how experimental trials during the voyage will be evaluated and compared to laboratory efficacy trials. The commenter recommended including a more detailed description of what will be collected and how efficacy will be measured in the FEA.

The Coast Guard disagrees with this comment. The request is outside of the scope of the FEA. A brief synopsis of the PEA has been added to the introduction section of this FEA. However, in the interest of keeping the FEA readable and of use for Federal decisionmakers in evaluating the action of accepting or denying the application into the STEP, the Coast Guard has left the goals and process of testing in the referenced documents. Further discussion of the test plan is available in the USCG Navigation and Vessel Inspection Circular 01–04.

One commenter stated that nutrients may affect efficacy of the treatment technology. The commenter recommended that the FEA include a more thorough description of the methodology that will be used for monitoring efficacy of the treatment technology across gradients of organic matter load within the ballast tanks. The commenter also recommended adding a section that will address evaluating technology performance under increasing levels of organic matter.

The Coast Guard has determined that the test plan is designed to "challenge" the treatment system as aggressively as possible, with the thought being that all other values of organic content would then be below this challenge level. The manufacturer is acutely interested in determining feedback mechanisms for regulating dose control and setting target dosage for the production version of this prototype system. That is beyond the scope of the STEP, but would be a primary element of a system type

approval evaluation should the company decide to move forward with this system.

One commenter stated that Appendix F provided species and life stages that were included in chlorine dioxide toxicity testing; however, it was not clear if these species are residents of the Carquinez, San Pablo Bay, or the greater San Francisco Bay. The commenter recommended updating the appendices with more current toxicology results on species that will be encountered at source water locations.

The Coast Guard agrees that a source specific evaluation is the ideal data to move forward with the evaluation of this prototype. The manufacturer was contacted to provide laboratory data of ClO<sub>2</sub> efficacy on water samples from water taken at Crockett, California, and that data has been incorporated into the FEA. Appendix F is from the EPA and it is not the Coast Guard's place to update it. Shipboard Technology Evaluation Program testing will determine toxicology results for species that will be encountered in the source water.

One commenter requested greater detail regarding the manual shut down process for the Ecochlor™ Inc. systems. The commenter stated that there was no remote control for the system, so providing more detail on how the system will be shut down if there is a mechanical failure would be useful.

These elements are a standard part of Coast Guard oversight of commercial vessels and their installed machinery. The system is designed and installed in accordance with all applicable regulations for electrical, hazardous materials handling, and storage and piping safety. Additionally, it has been inspected by USCG inspectors for compliance with safety regulations as well as inspectors for the company's classification society for conformance with class safety rules. Further detail in this document is considered beyond the scope of the FEA.

One commenter requested more detail regarding the proven shipboard practices for the use and safe handling procedures for ClO<sub>2</sub>, especially in light of spill protocols in the case of a full discharge.

The system does not store any ClO<sub>2</sub> at any time. Therefore, no spill of the chemical is possible. The ClO<sub>2</sub> is only generated at the immediate time of treatment within the reactor compartment of the treatment system. It is produced in small quantities and at low concentration so there is little risk of harm even in the event of a failure of the reactor. The system has been evaluated by independent safety

oversight experts at the USCG and the ship's classification society for just such contingencies.

One commenter stated that there was no reference in the document regarding the possibility of taking up source water in Hawaii and then discharging it in California waters. The commenter felt that it was necessary to test the Ecochlor™ system on Hawaiian organisms that could be taken into the ballast tanks.

The Coast Guard disagrees with this expansion of the scope of the assessment. The STEP applicant has applied under the established and dedicated shipping pattern of hauling sugar from Hawaii to California and returning in ballast to Hawaii. If the applicant desires to utilize the vessel in modified service, they must submit a revised application to the Coast Guard for review and supplemental assessment.

One commenter asked how the concentration of the "dilute chlorine dioxide (ClO<sub>2</sub>) solution" is derived. The commenter noted that previous studies indicated that this level was sufficient to achieve the desired treatment in Hawaiian waters, without adverse effects to marine fauna. The commenter also stated that the water quality should be cited.

The Coast Guard disagrees with this comment. The review of the scientific basis of the applicant's test plan is outside the scope of this FEA. However, the studies used to determine the dosage were reviewed and the basis for at least a starting dosage is agreed with by water treatment and marine biological and botanical experts.

One commenter asked if any attempts were made to monitor the ballast water once it left the ship, in order to assess water quality and potential impacts on marine fauna.

The Coast Guard has determined that the test plan does not call for monitoring outside the ship. Ballast water will be sampled immediately before discharge and treatment efficacy and residual levels of disinfectant will be quantified.

One commenter stated to minimize environmental impacts this material [ClO<sub>2</sub>] should be flushed out in mid-ocean away from coastal environments. The commenter also stated that the complete exchange of ballast water in mid-ocean will further avoid likelihood of any transport of invasive/non-indigenous species into sensitive coastal harbors.

The Coast Guard disagrees with this comment. The use of a treatment system is meant as an improvement upon the efficacy of mid ocean exchange. The

replacement of Ballast Water Exchange with use of a BWMS is the primary incentive for ships to participate in the STEP. Requiring BWE after treatment is contrary to the purposes of the STEP as defined in the PEA.

One commenter stated that studies, completed or currently underway, to document the number and quantity of invasive species that are being transported to Hawaii should be documented. The commenter stated that the key baseline information should be included in the FEA.

The Coast Guard has determined that this comment is outside the scope of the FEA. Since the MOKU PAHU is only one of several vessels calling on these Hawaiian ports, a determination has been made that the effects of the use of a BWMS on any one ship in reducing the overall introduction of NIS via BW will be negligible. Therefore, comparing total rates of introductions before and after this single STEP project is unlikely to detect any significant differences. The creation of a State of Hawaii baseline would not be appropriate to this STEP application because the purpose of the STEP is to determine the efficacy of a single BWMS on a single vessel. The Coast Guard supports other protective agencies' efforts to combat the threats to U.S. waters posed by NIS.

One commenter stated that the limited diversity of corals is better explained by the geographic remoteness of the islands and lack of direct current flow from the Indo-Pacific hub.

The Coast Guard appreciates the expertise of the local agency and has amended the text to more accurately reflect the origin of Hawaiian corals.

One commenter stated that in the main Hawaiian Islands most of the coral reefs lie in State waters, not Federal. The commenter also asked that the statement "\* \* \* The main Hawaiian Islands contain \* \* \*" be omitted or revised.

The Coast Guard appreciates the expertise of the local agency and has amended the text to more accurately reflect the characterization of Hawaiian coral.

One commenter stated that the un-referenced description of coral reefs along Maui's north coast (at the bottom of page 3–3), is incorrect. The commenter stated that monitoring sites within 5–6 km of Kahului Harbor may not be well developed in terms of geomorphological structure, but they do have extensive coral cover which is two times higher than state average (Jokiel, P.L., Brown, E.K., Friedlander, A.M., Rodgers, S.K., Smith, W.R., 2004. Hawaii coral reef assessment and monitoring program: Spatial patterns

and temporal dynamics in coral reef communities. *Pac Sci* 58, 159–174).

The Coast Guard appreciates the expertise of the local agency and has amended the text to more accurately reflect the characterization of Hawaiian coral.

One commenter asked what fisheries and migratory seabirds (and their current status) occur in the two harbors that might be impacted on page 3–4 and 3–5.

Based on the logic noted in the Consequences section, there will be at most an indirect negligible impact to birds as a result of the use of this system. The Coast Guard disagrees that further detail than that which is provided is necessary for making a STEP enrollment decision.

One commenter stated that the text regarding test results in section 2.2.1 of the FEA should read, “Laboratory studies have revealed that chlorite has a half-life of up to 30.3 days at 20 °C in Newark, and 10.5 days at 20 °C in Baltimore waters.” The commenter stated that by these numbers, it would take approximately 200 days in Newark to achieve a 99 percent decomposition of chlorite, and it could take up to 70 days in Baltimore waters for chlorite to decompose by 99 percent.

The Coast Guard agrees with this comment and thanks the commenter for their input. The language in the section has been changed to make it clear that the section is referring to laboratory tests. Further, we have included data from the fate and effect study, also provided by the technology vendor into the environmental considerations in this FEA.

All of the commenters stated their support and approval for the MOKU PAHU acceptance into the STEP, and recommended that the application should be granted.

The Coast Guard appreciates all of the comments and support for including the MOKU PAHU into the STEP.

**Final Environmental Assessment:** The PEA for STEP identified and examined the reasonable alternatives available to evaluate novel ballast water management systems for effectiveness against NIS transportation by ships’ ballast water.

This FEA for acceptance of the MOKU PAHU into the STEP and the subsequent operation of the experimental treatment system analyzed the no action alternative and one action alternative that could fulfill the purpose, and need of identifying suitable technologies capable of preventing the transportation of NIS in ships ballast water. Specifically, the FEA for the MOKU PAHU acceptance

into the STEP is tiered off of the PEA for the STEP, and considers the potential impacts to the environment from the operation of the treatment system on the MOKU PAHU, by examining the functioning of the system, the operational practices of the vessel, and the potential affects on discharge water quality.

This notice is issued under authority of the National Environmental Policy Act of 1969 (Section 102(2)(c)), as implemented by the Council of Environmental Quality regulations (40 CFR parts 1500–1508) and Coast Guard Commandant Instruction M16475.1D.

Dated: November 21, 2008.

**Brian M. Salerno,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.*

[FR Doc. E8–28474 Filed 11–28–08; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG–2008–0126]

#### Application for the Tank Ship S/R AMERICAN PROGRESS, Review for the Inclusion in the Shipboard Technology Evaluation Program; Draft Environmental Assessment

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability and request for public comments.

**SUMMARY:** The Coast Guard announces the availability of the Draft Environmental Assessment (DEA) for the tank ship S/R AMERICAN PROGRESS. The DEA describes the S/R AMERICAN PROGRESS’ application for the Shipboard Technology Evaluation Program (STEP) Ballast Water Management System (BWMS) demonstration initiative. The DEA for the S/R AMERICAN PROGRESS also addresses effects on the human and natural environments from installing, testing, and using the Severn Trent De Nora BalPure™ ballast water treatment system as the vessel operates in U.S. waters.

**DATES:** Comments and related materials must either be submitted to our online docket via <http://www.regulations.gov> on or before December 31, 2008, or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2008–0126 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on the Draft Environmental Assessment (DEA) please contact LCDR Brian Moore, telephone 202–372–1434 or e-mail: [brian.e.moore@uscg.mil](mailto:brian.e.moore@uscg.mil). If you have questions on viewing or submitting material to the docket, please call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to submit comments and related materials about the Draft Environmental Assessment (DEA) described in this notice. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting comments:** If you submit a comment, please include the docket number for this notice (USCG–2008–0126) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2008–0126” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic