

# Gulf Coast Mariners Association



P. O. Box 3589  
Houma, LA 70361-3589  
Phone: (985) 879- 3866  
Fax: (985) 879-3911  
www.gulfcoastmariners.org

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## INTRODUCTION

Marine Education Textbooks publishes (and copyrights) a Ballast Water Record Book, MET Stock #BK-133 that meets USCG mandatory reporting standards. The scope of these regulations will be expanded on August 13, 2004 to include tugs, barges and offshore supply vessels that carry any amount of ballast water and operate in two or more Captain of the Port (COTP) Zone. The information below with a sample reporting form is reprinted (with permission) from this book.

## M.E.T. BALLAST WATER RECORD BOOK

*[The Ballast Water Record Book complies with 33 CFR Part 151, Subparts C and D. The regulations in Subpart C that control the discharge of a ship's ballast water in the Great Lakes were originally promulgated in 1993. Regulations dealing with the Hudson River were added in 1994. Regulations covering all other ports and places in the*

*United States were added in May 1999 in Subpart D and significantly amended on June 14, 2004.*

*Coast Guard Navigation and Vessel Inspection Circular NVIC 07-04 provides additional guidance for Coast Guard personnel, Vessel Owners and Operators, Shipping Agents and other persons-in charge concerning compliance and enforcement of this program.]*

*[WARNING: The Final Rule, effective August 13, 2004 expands the scope of these regulations and requires vessels with ballast tanks (meaning "any tank or hold on a vessel used for carrying ballast water whether... or not designed for that purpose") to submit formal ballast water reports for each voyage and retain complete duplicate records on board the vessel for two years. This rulemaking is mandatory and has impressive penalty provisions.]*

## MANAGING A MULTI-BILLION DOLLAR PROBLEM

*[Source: 58 FR 18330-18335, Apr. 8, 1993.]*

**The Great Lakes.** Historical records suggest that more than 100 non-native species have been introduced into the Great Lakes. The introduction of non-native fish and other aquatic organisms through the discharge of ballast water has been proven to alter the balance of our ecosystem, often doing great harm to the system, the environment and our economy. Scientists believe that in the 1980s alone, ballast water discharges introduced six nuisance species to the Great Lakes including two species of zebra mussel, which caused catastrophic damage to the environment.

Many vessels take on water as ballast in foreign harbors or in their near-shore waters. These waters are often rich in living organisms. When these vessels arrived in the Great Lakes to take on cargo, they discharged their ballast water. Any organisms contained in the ballast water then entered the fresh water of the Great Lakes and their tributary waters. Many of these transplanted species did not survive in this new environment. However, some of those that did survive quickly adapted and, in some instances, thrived in their new environment, particularly where there were no natural predators to control their population growth. This uncontrolled population growth significantly harmed the delicately balanced ecosystem not only of the Great Lakes but also the western rivers system with its outlet to the lakes through the Chicago Sanitary and Ship Canal and the Hudson River through the New York State Barge Canal system (aka Erie Canal).

The zebra mussel provides a good example of the harmful effects of a newly introduced species. In June 1988, this small bivalve mollusk, native to the Black, Azov, and Caspian Seas in eastern Europe, was discovered on the Canadian side of Lake Saint Clair in the Great Lakes. In July of that year, it was discovered on the United States side in the western basin of Lake Erie. Scientists believe that it was introduced in 1986 in its pre-adult planktonic phase by the discharge of freshwater ballast of vessels from northern Europe, where it had spread throughout the last century.

The zebra mussel is a major fouling pest-species. Hundreds of millions of them now grow on and inside pipes, screens, conduits, boat bottoms, floats, buoys, rocks,

submerged objects, and native animals and plants. As a filter-feeding organism, it removes vast quantities of microscopic organisms from the water, the same organisms that fish larvae and young fish rely upon for their food supply. The zebra mussel also completely covers rocks and other substrates normally used by Great Lakes fish for laying eggs.

Since its introduction into the Great Lakes, the zebra mussel reproduced and spread to each of the Great Lakes, the Saint Lawrence River, and the New York Barge Canal system (i.e., Erie Canal). By 1993, it clogged water intakes to municipal water-filtration and electric power plants in Michigan, Ohio, and New York. The economic impact on communities affected by the introduction of this single non-native species into the Great Lakes was estimated to have reached **\$5 billion** by the year 2000 ó a fact that will give you a better idea of the scope of the òballast-waterö problem these regulations attempt to solve! Natural range expansion and secondary transfer media has led to its establishment in all connecting waters of the Great Lakes and eventually will lead to its establishment in many other North American rivers and lakes.

### INITIAL APPROACH TO BALLAST WATER MANAGEMENT

Currently, the most practical method of helping to protect the Great Lakes from foreign organisms that may exist in discharged ballast water is to exchange ballast water in the open ocean, beyond the continental shelf. Water in the open ocean contains organisms that are adapted to the physical, chemical, and biological conditions (such as high salinity) of the ocean. These organisms will not, or are unlikely to, survive if introduced into a freshwater system.

Another method of protecting the Great Lakes and other areas from non-indigenous<sup>(1)</sup> species carried through ballast water is to retain the ballast water on board vessels while they are in the Great Lakes. Seals on the tanks or holds carrying ballast water will ensure that there is not an accidental or intentional discharge. However, most vessel operators loading and unloading cargo in the Great Lakes need to discharge ballast water, necessitating the ballast water exchange requirements first published in a final rule for the Great Lakes in 1993 and reflected in the reports discussed below. [<sup>(1)</sup>*Vocabulary: Non-indigenous = not native to an area; imported.*]

In addition to ballast water exchange and retention, there are other possible methods of ballast water control. They include discharging ballast water to reception facilities ashore, heating or chemically treating ballast water, disinfecting ballast water with ultraviolet light, depriving ballast water of oxygen, installing filters, and modifying vessel design. However, there had been only limited research and practical experience on the cost, safety, effectiveness, and environmental impact of these methods in 1993 when the first regulations came into effect and the problem needed immediate attention. This research continues today.

### INTERNATIONAL RECOGNITION OF THE INVASIVE SPECIES PROBLEM

The introduction and spread of non-indigenous species by a vessel's ballast water has been a focus of attention at the International Maritime Organization (IMO). IMO, the United Nations' specialized agency for maritime affairs, recognized this issue as an international problem that required an international solution.

In November 1990, IMO's Marine Environment Protection Committee (MEPC) formed a working group to consider research information and solutions proposed by member states of IMO and by non-governmental organizations. The MEPC working group concluded that voluntary guidelines were the appropriate first step in addressing this problem. The group reviewed and modified the Canadian delegation's draft resolution and guidelines, which the MEPC adopted in July 1991. Those guidelines called for ballast water exchange in the open ocean as a primary method of helping control the further entry of these nuisance species.

### CANADA TAKES ACTION ON THE GREAT LAKES

**The Canadian Voluntary Guidelines.** In May 1989, the Canadian Coast Guard introduced the first voluntary guidelines for controlling ballast water discharges into the Great Lakes. The Canadian Coast Guard developed these guidelines in full consultation with the U.S. Coast Guard, the Great Lakes Fishery Commission, and representatives of commercial shipping. These guidelines encouraged all vessels inbound for the Saint Lawrence River and the Great Lakes to exchange freshwater ballast collected in foreign harbors or near coastal waters for saltwater ballast collected from the open ocean. This exchange was to occur far enough from any coastline so that the new ballast water contained few organisms, if any, that could survive in the freshwater of the Great Lakes.

### UNITED STATES ACTS ON THE GREAT LAKES

**United States Legislation.** On November 29, 1990, the United States enacted the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646, codified at 16 USC 4701 et seq.) The Act required the U.S. Coast Guard, in consultation with the government of Canada, to issue voluntary guidelines to help prevent further spread of aquatic nuisance species into the Great Lakes in vessels' ballast water. Joint U.S. and Canadian voluntary guidelines, which closely tracked the Canadian guidelines discussed above, went into effect on March 15, 1991.<sup>(1)</sup> [<sup>(1)</sup>Refer to 56 FR 11330, Mar. 15, 1991 <sup>(2)</sup>Refer to 69 FR 32864-32870, June 14, 2004.]

Including vessels that achieved only partial ballast water

exchange, participation by the commercial shipping industry was high with an estimated 90% rate of voluntary compliance.

The Act required that the regulations apply to vessels that enter a U.S. port on the Great Lakes after operating on the waters beyond the Exclusive Economic Zone (EEZ). The Act further required that the regulations prohibit the operation of a vessel in the Great Lakes if the Master of the vessel did not certify that he had complied with the requirements of the regulations. The scope of these first regulations was limited to the Great Lakes.

**Penalties.** The Act, unlike the voluntary guidelines, provided for both civil and criminal penalties. Any person who violated the regulations was liable for a civil penalty not to exceed \$25,000 with each day of a continuing violation counted as a separate violation. This figure was later adjusted upward to \$27,500 to maintain the same effect as a result of inflation.

Any vessel operated in violation of the regulations is liable, in rem, for any civil penalty assessed for that violation. In Rem means that the vessel itself may be proceeded against in court. Any person who knowingly violated the regulations would be guilty of a Class C felony upon conviction. A Class C felony is punishable by not more than 12 years in prison and a fine of not more than \$250,000 for an individual or not more than \$500,000 for an organization. This is serious stuff!

**UNITED STATES REGULATIONS  
EXPAND TO THE HUDSON RIVER**

Congress soon realized that it was necessary to implement ballast water regulations for vessels entering the Hudson River after operating beyond the EEZ.<sup>(1)</sup> [<sup>(1)</sup>**Vocabulary:** *EEZ = Exclusive Economic Zone that generally extends no farther than 200 miles offshore.*]

The Hudson River is connected to the Great Lakes through the New York State Barge Canal System, which allows for the movement of shallow-draft commercial and recreational vessels throughout the state's waterways. As a result of this connection, species released from a vessel's ballast water into the Hudson River can migrate, or be transferred by vessels navigating the canal system into the Great Lakes.

Consequently, a final rule was published to protect the waters of the Hudson River in late 1994.<sup>(1)</sup> [<sup>(1)</sup>*At 59 FR 67632-67634, Dec. 30, 1994.*]

**U.S. BWM REGULATIONS NOW COVER  
ALL UNITED STATES PORTS**

*[Source: 64 FR 26672 et seq., May 17, 1999; 66 FR 58381-58393, Nov. 21, 2001; 69 FR 32864-32871, June 14, 2004.]*

**Purpose of these regulations.** To comply with the National Invasive Species Act of 1996 (NISA), the Coast Guard established both regulations and voluntary guidelines to control the invasion of aquatic nuisance species (ANS). Ballast water from ships is one of the largest pathways for the intercontinental introduction and spread of ANS. The final rule promulgated in June 2004 amends existing

regulations and essentially extends the system that protects the Great Lakes and Hudson River to the rest of the United States and requires reporting with penalties in place for non-compliance. The Ballast Water Record Book contains copies of the mandatory reporting forms!

**The "Voluntary" program was not successful!** In 2002 the Secretary of Transportation based on information received from the Coast Guard determined and reported to Congress that the voluntary Ballast Water Management program was inadequate.

The Coast Guard therefore converted the voluntary program into a mandatory program effective August 13, 2004 to apply to all ports and places under United States jurisdiction. Nevertheless, the basic ballast water control program for the Great Lakes and Hudson River remains virtually unchanged. *[For further information contact Mr. Bivian Patnaik, USCG Environmental Standards Division, G-MSO-4, at 202-267-1744.]*

The new Coast Guard ballast water control regulations help control the spread of invasive species by:

• Requiring operators of vessels entering U.S. waters to submit a ballast water management report.

• Promoting ballast water management for operators of all vessels in U.S. waters.

**Carrying out the will of Congress.** The Coast Guard determined that the regulations adopted in this rule accurately reflect the requirements of the Act and represent the most practical and effective ballast water management method available at this time. They continue to support and encourage the development of more efficient and effective methods of protecting U.S. waters from non-indigenous aquatic nuisance species.<sup>(1)</sup> [<sup>(1)</sup>*Refer to NVIC 01-04 for Shipboard Testing of Ballast Water Treatment Systems.*]

**COMMENTS ON THE REGULATIONS  
(Based on Federal Register Preambles & NVIC 07-04)**

**1. Can individual states or other levels of government issue other regulations that exceed or change these regulations?**

Probably! The Coast Guard's position is that consistent standards that are universally applied, coupled with Federal initiatives to address unique regional concerns, are the best way to meet local and national environmental goals without disrupting international maritime commerce. To avoid potential conflicts and duplication, political subdivisions contemplating any laws, regulations, or requirements on discharging ballast water, consider the existing regulation before taking action.

The Coast Guard tries to maintain nationwide consistency in methods to control invasive species and to ensure national consistency for any regulations touching on the design, construction, equipment, manning, and operation of vessels that were based on international rules and regulations adopted by the IMO and ratified by the U.S.

However, the ballast water regulations are not intended to take the place of any State, regional, or local efforts that exceed but do not conflict with the standards in this rule. Section 1205 of the Act states that: "Nothing in this title

shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife."

With the move toward international involvement, carefully crafted and internationally consistent national standards rather than local regulations will need to be applied to vessels owned and operated by our trading partners.

## **2. Are these rules just "guidelines" or are they "mandatory"?**

The Act originally required the Coast Guard to publish national voluntary guidelines to control aquatic nuisance species. However, the Act also listed the specific criteria that have now caused these guidelines to become mandatory.

The Act directed the Coast Guard to assess the rate of compliance with the guidelines, using the ballast water management reports they receive from the owners and operators who submit the required reports. Since the Coast Guard could not assess the rate of compliance with the voluntary guidelines because they did not receive an adequate number of accurate reports, they had no choice but to make the "guidelines" mandatory as they did effective August 13, 2004.

On June 3, 2003 the Secretary of Transportation reported to Congress that compliance with the reporting requirement was insufficient to allow for an accurate assessment of the voluntary Ballast Water Management program. NVIC 07-04 clearly shows that the Coast Guard has the tools to extract the information they need from each vessel!

## **3. Are aquatic nuisance species a naturally occurring phenomenon or are they "pollution"?**

Both! Some spread of exotic species does occur naturally and nature does create its own system of "checks and balances." However, shipping allows many organisms to bypass natural barriers such as the open ocean, different salinity levels, and their ability to reach hospitable ecosystems, etc. This means that the natural checks and balances are disrupted and can no longer prevent them from entering and degrading our ecosystems. Further, while it overlaps with quarantine issues, anything (such as the zebra mussel, for example) that makes an ecosystem less suitable for an activity, or unfit for or harmful to living things is considered to be a pollutant.

## **4. Does the Coast Guard intend to require vessel operators to carry a copy of the IMO guidelines on their vessel?**

No. "Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens" (IMO Resolution A.868(20)), was adopted in November 1997. In February 2004, the IMO adopted the "International Convention for the Control and Management of Ships' Ballast Water and Sediments" that will enter into force when 30 countries representing at least 35% of the world's tonnage ratify it.

Many of the recommendations in the Coast Guard regulations are adapted from the IMO guidelines with revisions based upon the needs of our domestic waters that have been invaded by unwanted plants, insects, and animals.

The United States laws mirror the IMO's guidance in many ways, but U.S. laws apply in U.S. waters!

## **5. How will the Coast Guard treat a vessel operator who declares he has "No Ballast on Board" (NOBOB) or no intention of dumping ballast he may have in U.S. waters.**

A vessel with NOBOB may not have a large quantity of ballast water on board. Yet, the vessel may retain some sediment and residual ballast water that could contain invasive species.

The Coast Guard wants all vessels to remove sediments in an appropriate manner on a regular basis. They worked to identify possible management methods to reduce any threat to a vessel claiming NOBOB although it was premature to issue regulations specifically for these vessels. However, these vessels must still fulfill reporting requirements. Possible undesirable to catastrophic outcomes of forcing a vessel operator with NOBOB to conduct a ballast water exchange could include:

• Destabilizing the vessel.

• Cause it to submerge its load line.

• Compromise its seaworthiness by exceeding hull girder stress limits, or

• Increase the stresses on the hull to the point they could fracture.

## **6. What vessels do Subparts C and D apply to? [Refer to 33 CFR 151.1502.]**

The Subpart C details the additional requirements for vessels entering the Great Lakes and Hudson River. Subpart D details requirements for all vessels operating in U.S. waters including the Great Lakes and Hudson River.

## **7. When might the Coast Guard remove the exemption from ballast water management from a passenger vessel?**

The Coast Guard can remove the exemption for a passenger vessel if its ballast water treatment system is less effective than ballast water exchange.

## **8. Is a blanket exemption from ballast water management warranted for mobile offshore drilling units (MODUs)?**

The Coast Guard determined that a blanket exemption for MODUs is not warranted. However, they encourage MODU owners and operators to bring their specific ballast issues to the Coast Guard to consider for alternative compliance. Methods to submit alternative compliance proposals are detailed in 33 CFR 151.2035(b)(3) and require more detailed information on flow rates, volumes exchanged, etc., before determining an exemption.

## **9. Do the ballast water regulations apply to foreign vessels?**

Yes. Refer to 33 CFR Part 151.2005.

## **10. Do these regulations apply to military vessels?**

No! The mandatory provisions of this rule do not apply to vessels of the U.S. Department of Defense, the Coast Guard, or Armed Forces vessels. These vessels are subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces." [Refer to 33 CFR 151.2010.]

**11. Which vessels are exempt from mandatory ballast water requirements?**

Vessels (including barges) that carry ballast water that operate exclusively within a single Captain of the Port (COTP) Zone. The entire country is divided into Marine Inspection and COTP Zones whose boundaries are listed in 33 CFR Part 3. These zones are illustrated in NVIC 07-04 in Figures A-1, A-2 and A-3. Knowing exactly where these boundaries lie could be very important to operators of towing vessels and offshore supply vessels that are now affected by these expanded regulations.

**12. Are there any guidelines or requirements for owners and operators of vessels carrying ballast water on domestic voyages?**

The Coast Guard included guidelines (i.e., precautionary practices) for all vessels equipped with ballast tanks that operate in U.S. waters. [Refer to 33 CFR 151.2035(a).]

**13. Which vessels must report their ballast water and maintain records on board?**

The Ballast Water Management (BWM) reporting and record keeping requirements, and associated penalties, extend to all vessels, both foreign and domestic that are bound for ports and places in the United States and are equipped with ballast water tanks, must submit BWM reports regardless of whether the vessel operated outside the U.S. Exclusive Economic Zone (EEZ). This includes those ships that declare No Ballast On Board (NOBOB) and vessels engaged in the foreign export of Alaskan North Slope crude oil.

**14. Which ballast water is suspected of harboring invasive species?**

The regulations apply to any ballast water taken in waters within 200 miles from any shore, or in waters less than 2,000 meters (6,650 feet/1,093 fathoms) deep, that later could be discharged into U.S. waters.

**15. When is a vessel in innocent passage as far as these regulations are concerned?**

In plain terms, if you are bound for or departing from a U.S. port, these regulations apply to you!

Innocent passage occurs when a foreign vessel navigates through the U.S. territorial sea without entering U.S. internal waters or calling at a U.S. port.

A foreign vessel is also considered in innocent passage when in transit to or from a U.S. port. However, a vessel that actually enters U.S. internal waters (i.e., waters shoreward of the territorial sea baseline) or that enters a U.S. port no longer has innocent passage status. This means that the mandatory reporting requirements of this rule, as well as the voluntary ballast water management guidelines apply. [Refer to 33 CFR 151.2015 & 33 CFR 151.2035.]

For the purpose of defining whether a vessel is navigating in the territorial sea,<sup>(1)</sup> the Coast Guard defines the territorial sea for this regulation as extending to 12 nautical miles from the baseline. Innocent passage does not include a vessel that enters the Snell Lock at Massena, New York, on the St. Lawrence River, regardless of its destination. [<sup>(1)</sup>Refer to Presidential Proclamation No. 5928, Dec. 27, 1988.]

**16. Do the mandatory regulations for the Great Lakes and Hudson River apply to a vessel that operates beyond the EEZ and then makes stops in other U.S. waters before entering the Great Lakes or Hudson River?**

Yes. The mandatory regulations in 33 CFR Part 151, Subpart C apply to any vessel operated as described above.

**17. What is the goal of ballast water exchange?**

The Coast Guard's goal is for owners and operators to exchange all (i.e., 100%) of the original water in their ballast tanks. However, owners and operators must consider the operating systems and any physical limitations of the vessel as well as the safety and stability of the vessel or safety of the crew before conducting an exchange.<sup>(1)</sup> [<sup>(1)</sup> Refer to 33 CFR 151.1512.]

The Coast Guard did not change the core of the existing regulations for the Great Lakes and Hudson River at 33 CFR Part 151.1510. Owners and operators of all other vessels are requested to conduct an exchange as follows:

ÉFor a flow-through exchange, exchange the equivalent of three times the volume of water in the ballast tank.

ÉFor an empty/refill exchange, if conditions are safe and it is practical, try to replace 100% of the volume of ballast water.

**18. What penalty provisions apply for not obeying ballast water management regulations?**

The penalty provisions include restriction of operation, revocation of Customs clearance, and possible civil and criminal penalties. [Refer to 33 CFR 151.1506; 33 CFR 151.1508; 33 CFR 151.1510.]

**19. Can salinity be used to verify that a satisfactory ballast water exchange has been made in ocean waters?**

The Coast Guard recognizes that salinity cannot be used as the only verification of open ocean exchange at a coastal port. Salinity also cannot be used as the sole measure to confirm proper operation of alternative control methods as developed. The Coast Guard is awaiting a final report on parameters to use to verify that a ballast water exchange really took place, and have entered preliminary stages of additional studies to determine all other methods that they can use.

**20. How can a vessel operator have the Coast Guard approve an alternative environmentally sound method of ballast water management?**

The Coast Guard will approve alternative methods of ballast water management under 33 CFR Part 151.2035(b)(3). Any request to approve an alternative method must be submitted to, and approved by, the Coast Guard before a vessel's scheduled voyage. You must allow adequate time for the Coast Guard to process, analyze, and consider the alternative method for approval. Send your request to U.S. Coast Guard Headquarters, (G-MSO-4), 2100 Second Street SW., Washington, DC 20593-0001. The phone number is (202) 267-0500. The Coast Guard will evaluate each proposal on a case-by-case basis.

The Coast Guard is developing a standardized protocol and requirements for approval. They will approve an alternative method only after considering these points:

- É Does the method conform to existing laws and standards?
- É How effective is the method in reducing the viability of organisms within the vessel's ballast water?
- É How will the vessel operator verify that the system is operating as designed?

**21. Is retaining ballast water on board a suitable ballast water management method?**

33 CFR Part 151.2035(b)(2) states that retaining ballast water on board is an option.

**22. Is discharging ballast water to an approved reception facility a suitable method of disposal?**

33 CFR 151.2035(b)(4) states that discharging ballast water to an approved reception facility is an option.

**23. Is discharging ballast water at publicly-owned treatment plants approved?**

Each publicly owned treatment plant must be considered on a case-by-case basis to see if vessel owners and operators can safely discharge ballast water there. The Coast Guard must know if:

- É The plant can handle the volume of ballast water the vessel can discharge.
- É The treatment methods used at the plant can effectively kill the full range of genus and species of organisms found in the ballast water.
- É Allowing vessel owners and operators to discharge ballast water will violate any local or State regulations.
- É The wastewater treatment plant will accept the ballast water.
- É The wastewater treatment plant is aware of the salinity levels of the ballast water.

**24. Does the Coast Guard encourage industry to develop shoreside ballast water reception facilities, new technologies besides ballast water exchange, and chemical treatment methods as alternative methods of ballast water management?**

Yes. The Coast Guard supports further development of these methods and will continue to encourage advances in methods of treating ballast water. However, they will consider applicable laws, regulations, and the consequences of a treatment before approving any method.

**25. Is additional study going into alternative compliance methods?**

The Coast Guard is working with the Smithsonian Environmental Research Center to incorporate a research and technology section into the National Ballast Water Information Clearinghouse (NBIC) (NBIC Web site: [www.serc.si.edu/invasions/ballast.htm](http://www.serc.si.edu/invasions/ballast.htm))

The Coast Guard encourages companies to continue to research and develop other ballast control methods. Direct any requests for alternative disposal sites directly to the Captain of the Port (COTP) of the affected zone.

**26. What problems can you face in disposing of ballast tank sediment ashore?**

Restrictions on disposing of sediments ashore may come

under the jurisdiction of agencies other than the Coast Guard, such as the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, 7 CFR Part 330.

33 CFR Part 151.2035(a)(3) now states that sediments must be disposed in accordance with local, state, and Federal regulations. This requirement ensures that vessel representatives are aware that disposal of sediments within the United States must be done in accordance with existing regulations or laws.

**27. Is the Master still responsible for the safety of the vessel?** [Refer to 33 CFR Part 151.1510.]

Vessels subject to 33 CFR Part 151 Subpart C (in the Great Lakes and Hudson River) must comply with the requirements of 33 CFR 151.1514, "Ballast water management alternatives under extraordinary conditions."

Vessels not subject to Subpart C should consult 46 CFR 151.2030 in regard to using the "safety exemption" provided therein

**28. What is the background of certain mandatory reporting and recordkeeping requirements?** [Refer to 46 CFR 151.1514.]

Salinity and water temperature: The Act directs the Coast Guard to consider the various characteristics of ballast water both at its point of origin and at its point of discharge. Recording the water salinity and temperature is essential to obtaining that information.

Sea height at the time of a ballast exchange: The Coast Guard determined that this information is necessary to accurately collect data on ballast water practices and must be recorded on the Ballast Water Management report. However, this data should never be used to determine safe operating parameters at which all ships can conduct an exchange. The Coast Guard must consider each ship's unique operating, structural, and stability issues.

**29. Are other forms acceptable to submit to the Coast Guard in complying with these regulations?**

The Coast Guard will continue to accept the IMO "Ballast Water Reporting Form" and the St. Lawrence Seaway's required "Pre-entry Information from Foreign Flagged Vessels Form" as satisfying the information and reporting requirements of this rule. The Coast Guard will coordinate with IMO and Canada to encourage standardization of a ballast water reporting form. The Coast Guard feels that to sacrifice an improved product in attempt to maintain standardization of the proposed form is not in the best interest of this program.

**30. How is the information on ballast water management reporting forms used?**

The Coast Guard needs this information to ensure that every vessel with a ballast water tank or space complies with the mandatory ballast water management regulations before it enters a U.S. port and to assess the effectiveness of its program. Headquarters staff and researchers from both private and other governmental agencies will use the information to assess the effectiveness of the BWM program. The information will be provided to Congress on a regular basis as required by the Act.

**30. How thoroughly will the Coast Guard monitor compliance with these regulations?** [Refer to 33 CFR 151.1518.]

Enclosures 1 & 2 of NVIC 07-04<sup>(1)</sup> contains Coast Guard guidelines to their own personnel as to how stringently they are expected to carry out the regulations. This document effectively closes all possible administrative loopholes. If the Coast Guard has the funds and manpower (and the NVIC assumes they do), the guidance for their own personnel is impressive. <sup>(1)</sup> *NVIC 07-04 is available free on the internet or from MET at our standard copy prices. It is especially useful in covering items the regulations just touch upon.*

<p style="text-align: center;"><b>NEW REGULATIONS INCLUDE TUGS, TOWBOATS, BARGES, OSVS &amp; MODUS</b></p>
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**31. Why did the Coast Guard oppose monthly ballast water reporting for tugs and barges?**

A number of comments suggested that towing operators that carry ballast water and serve the domestic coastwise trade submit reports every 30 days, rather than 24 hours prior to arrival in the first U.S. port because monthly reporting would ease the administrative burden on the vessel operator.

The Coast Guard disagreed with these comments. To change the submission requirements of ballast water reports for tugs and barges from 24 hours to 30 days would delay the accounting of ballast water management practices, thereby denying the Coast Guard the means of enforcing compliance of mandatory ballast water reporting requirements.

NVIC 07-04 states in part: "Each report that is submitted must include only BWM information specific to an individual voyage. Single reports that cover more than one voyage are not allowed. The master, owner, operator, agent and person in charge are responsible for ensuring that the BWM reports are submitted either 24 hours before arrival to the U.S. port or place of destination if the voyage is more than 24 hours or before departing the port or place of departure if the voyage is less than 24 hours."

**32. Who is responsible for submitting ballast water reporting forms when vessels are under repair?.**

33 CFR §151.2045(a) states, "The master, owner, operator, or person in charge of a vessel must keep written records." Therefore, the vessel owner, tugboat operator, and the dry-dock manager should discuss and decide who will submit the ballast water reporting forms. The responsibility is on the vessel owner to ensure that the form is submitted.

**33. Is the Coast Guard moving toward requiring the electronic filing of ballast water reports?**

Currently, vessels have several choices in submitting ballast water reporting forms because not all vessels have the capability to submit forms electronically. As vessels increase their access to email and the Internet, more forms will be sent electronically.

The Coast Guard is currently working with NBIC to streamline the submittal of ballast water reporting forms and to have all BWM data in the NBIC database.

NVIC 07-04 states that on-line reporting to the NBIC website is the preferred method of reporting. The second choice is FAX reporting with the U.S. Postal Service listed in a distant third place!

Although all three means are given equal footing in the regulations, the NVIC points out that there are two separate functions you must be aware of, namely: REPORTING and RECORD KEEPING.

Your records on the vessel must contain a complete signed copy of each approved form you send to the NBIC. You obtain such a record when you work on-line. However, not all fax machines provide such a record.

The Coast Guard guidelines in NVIC 07-04 contain little tolerance for inaccurate or illegible reports, including illegible reports received by fax.

When submitting forms by mail, the Coast Guard suggests using Certified Mail, Return Receipt service and that you attach all receipts to the copies of the form you submit to the NBIC.

NVIC 07-04 also contains a table titled "How to avoid the common problems associated with ballast water reporting forms to the NBIC" that should be helpful in increasing the accuracy of the reports.

**34. What is the Coast Guard's policy on ballast water management for vessels that have tanks or voids, but are not carrying ballast water?**

The reporting data gathered on whether or not vessels operating in U.S. waters are carrying ballast water is important in understanding ballast water management practices. Congress directed the Coast Guard in the National Invasive Species Act (NISA) to have a complete picture of these management practices for U.S. waters. That is why these vessels are required to report this data.

**35. Why aren't inland towing vessels and barges exempt from ballast water reporting requirements.**

In NISA, Congress required the Coast Guard to assess the complete picture of ballast water management practices for U.S. waters. Therefore, the Coast Guard now requires this data from inland towing vessels and barges if they are equipped with ballast tanks or even occasionally carry ballast water in other tanks or compartments on board.

**36. Why did the Coast Guard disagree that exemptions should be provided for unmanned vessels, NOBOBs, and vessels operating within the borders of one Coast Guard district.**

The reporting data gathered on these vessels is important in understanding ballast water management practices of vessels operating in U.S. waters. Some Coast Guard districts encompass a large area. For example, the Eighth District includes parts of 22 states whereas the Captain of the Port (COTP) Zones are much smaller in size and vessel movements can receive closer local scrutiny. Therefore, it does not make sense to exempt vessels in an entire district because the goal of these regulations is to stop the spread of NIS in U.S. waters.

There are large numbers of NOBOB vessels. It is important to understand their ballast water management practices as directed by NISA. Therefore, NOBOBs must submit ballast water reporting forms.

**37. When are Mobile Offshore Drilling Units (MODU) exempt from the mandatory reporting requirements?**

Those MODUs that operate within one COTP zone will be exempt from the mandatory ballast water reporting requirements. However, MODUs (and other vessels) that move from one COTP Zone to another will be required to submit ballast water reporting forms.

**38. What are the reporting requirements for Offshore Supply Vessels (OSV)?**

The Coast Guard received two comments stating that it is not clear if 33 CFR §151.2010(c) intends to include offshore supply vessels (OSVs) operating out of a single COTP zone in terms of voyages that are to and from sites in the EEZ. They also asked if COTP zones extend to the EEZ.

Section 151.2010(c) does exempt all vessels, including OSVs that operate within a single COTP zone. The COTP Zone boundaries appear in 33 CFR Part 3 and are shown graphically in NVIC 07-04.

If an OSV operates exclusively within one COTP zone, that vessel will be exempt. At this time, as required by NISA, the Coast Guard must evaluate the ballast water management operations of all vessels operating within U.S. waters. Therefore, OSVs operating in more than one COTP zone will be required to submit ballast water reporting forms.

If, after a period of time, the Coast Guard determines that we they are receiving data that does not benefit their evaluation, they may then revisit the program and adjust it accordingly.

**THE REGULATIONS**

**33 CFR Part 151, Subpart C  
Ballast Water Management for  
Control of Non-indigenous Species  
in the Great Lakes and Hudson River**

- 151.1500 Purpose.
- 151.1502 Applicability.
- 151.1504 Definitions.
- 151.1506 Restriction of operation.
- 151.1508 Revocation of clearance.
- 151.1510 Ballast water management.
- 151.1512 Vessel safety.
- 151.1514 Ballast water management alternatives under extraordinary conditions.
- 151.1516 Compliance monitoring.
- 151.1518 Penalties for failure to conduct ballast water management.

**Authority:** 16 U.S.C. 4711; Department of Homeland Security Delegation No. 0170.1

**Source:** CGD 91-066, 58 FR 18334, Apr. 8, 1993, unless otherwise noted.

**§151.1500 Purpose.**

The purpose of this subpart is to implement the provisions of the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

**§151.1502 Applicability.**

This subpart applies to each vessel that carries ballast water and that after operating on the waters beyond the Exclusive Economic Zone during any part of its voyage enters the Snell Lock at Massena, New York, or navigates north of the George Washington Bridge on the Hudson River, regardless of other port calls in the United States or Canada during that voyage.

[CGD 94-003, 59 FR 67634, Dec. 30, 1994]

**§151.1504 Definitions.**

The following terms are defined as used in this subpart.

*Ballast water* means any water and suspended matter taken on board a vessel to control or maintain, trim, draught, stability, or stresses of the vessel, regardless of how it is carried.

*Ballast tank* means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

*Captain of the Port (COTP)* means the Coast Guard officer designated as COTP of either the Buffalo, NY, Marine Inspection Zone and Captain of the Port Zone or the New York, NY, Captain of the Port Zone described in part 3 of this chapter or an official designated by the COTP.

*Commandant* means the Commandant of the Coast Guard or an authorized representative.

*Exclusive Economic Zone (EEZ)* means the area established by Presidential Proclamation Number 5030, dated March 10, 1983, (48 FR 10605, 3 CFR, 1983 Comp., p. 22), which extends from the base line of the territorial sea of the United States seaward 200 miles, and the equivalent zone of Canada.

*Environmentally sound method* means methods, efforts, actions, or programs, either to prevent introductions or to control infestations of aquatic nuisance species, that minimize adverse impacts to the structure and function of an ecosystem, minimize adverse effects on non-target organisms and ecosystems, and that emphasize integrated pest management techniques and non-chemical measures.

*Great Lakes* means Lake Ontario, Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

*Port* means a terminal or group of terminals or any place or facility that has been designated as a port by the COTP.

*Sediments* means any matter settled out of ballast water within a vessel.

*Voyage* means any transit by a vessel destined for the Great Lakes or the Hudson River, north of the George Washington Bridge, from a port or place outside of the EEZ, including intermediate stops at a port or place within the EEZ.

[CGD 91-066, 58 FR 18334, Apr. 8, 1993, as amended by CGD 94-003, 59 FR 67634, Dec. 30, 1994; 64 FR 26682, May 17, 1999]

**§151.1506 Restriction of operation.**

No vessel subject to the requirements of this subpart may be operated in the Great Lakes or the Hudson River, north of



the George Washington Bridge, unless the master of the vessel has certified, in accordance with §151.1516, that the requirements of this subpart have been met.  
[CGD 94-003, 59 FR 67634, Dec. 30, 1994]

#### **§151.1508 Revocation of clearance.**

A COTP may request the District Director of Customs to withhold or revoke the clearance required by 46 U.S.C. app. 91 for a vessel subject to this subpart, the owner or operator of which is not in compliance with the requirements of this subpart.

#### **§151.1510 Ballast water management.**

(a) The master of each vessel subject to this subpart shall employ one of the following ballast water management practices:

(1) Carry out an exchange of ballast water on the waters beyond the EEZ, from an area more than 200 nautical miles from any shore, and in waters more than 2,000 meters (6,560 feet, 1,093 fathoms) deep, prior to entry into the Snell Lock, at Massena, New York, or prior to navigating on the Hudson River, north of the George Washington Bridge, such that, at the conclusion of the exchange, any tank from which ballast water will be discharged contains water with a minimum salinity level of 30 parts per thousand.

(2) Retain the vessel's ballast water on board the vessel. If this method of ballast water management is employed, the COTP may seal any tank or hold containing ballast water on board the vessel for the duration of the voyage within the waters of the Great Lakes or the Hudson River, north of the George Washington Bridge.

(3) Use an alternative environmentally sound method of ballast water management that has been submitted to, and approved by, the Commandant prior to the vessel's voyage. Requests for approval of alternative ballast water management methods must be submitted to the Commandant (G-M), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

(b) No master of a vessel subject to this subpart shall separately discharge sediment from tanks or holds containing ballast water unless it is disposed of ashore in accordance with local requirements.

(c) Nothing in this subpart authorizes the discharge of oil or noxious liquid substances (NLSs) in a manner prohibited by United States or international laws or regulations. Ballast water carried in any tank containing a residue of oil, NLSs, or any other pollutant must be discharged in accordance with the applicable regulations. Nothing in this subpart affects or supersedes any requirement or prohibitions pertaining to the discharge of ballast water into the waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*).

[CGD 91-066, 58 FR 18334, Apr. 8, 1993, as amended by CGD 94-003, 59 FR 67634, Dec. 30, 1994; USCG 1998-3423, 66 FR 58390, Nov. 21, 2001.]

#### **§151.1512 Vessel safety.**

Nothing in this subpart relieves the master of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers, or any other responsibility.

#### **§151.1514 Ballast water management alternatives under extraordinary conditions.**

The master of any vessel subject to this subpart who, due to weather, equipment failure, or other extraordinary conditions, is unable to effect a ballast water exchange before entering the EEZ, must employ another method of ballast water management listed in §151.1510, or request from the COTP permission to exchange the vessel's ballast water within an area agreed to by the COTP at the time of the request and must discharge the vessel's ballast water within that designated area.

#### **§151.1516 Compliance monitoring.**

(a) The master of each vessel equipped with ballast tanks shall provide, as detailed in §151.2040, the following information, in written form, to the COTP:

(1) The vessel's name, port of registry, and official number or call sign.

(2) The name of the vessel's owner(s).

(3) Whether ballast water is being carried.

(4) The original location and salinity, if known, of ballast water taken on, before an exchange.

(5) The location, date, and time of any ballast water exchange.

(6) The salinity of any ballast water to be discharged into the territorial waters of the United States.

(7) The intended discharge port for ballast water and location for disposal of sediment carried upon entry into the territorial waters of the United States, if ballast water or sediment are to be discharged.

(8) The signature of the master attesting to the accuracy of the information provided and certifying compliance with the requirements of this subpart.

(b) The COTP may take samples of ballast water to assess the compliance with, and the effectiveness of, this subpart.

[CGD 81-066, 58 FR 18534, Apr. 8, 1993, as amended by USCG-1998-3423, 66 FR 58391, Nov. 21, 2001.]

#### **§151.1518 Penalties for failure to conduct ballast water management.**

(a) A person who violates this subpart is liable for a civil penalty in an amount not to exceed \$27,500. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subpart for that violation.

(b) A person who knowingly violates the regulations of this subpart is guilty of a class C felony.

[USCG-2002-13147, 69 FR 32869, June 14, 2004.]

### **33 CFR Part 151, Subpart D Ballast Water Management for Control of Non-indigenous Species in waters of the United States**

151.2000 What is the purpose of this subpart?

151.2005 To which vessels does this subpart apply?

151.2007 What are the penalties for violations of the mandatory provisions of this subpart?

- 151.2010 Which vessels are exempt from the mandatory requirements?
- 151.2015 Is a vessel in innocent passage exempt from the mandatory requirements?
- 151.2025 What definitions apply to this subpart?
- 151.2030 Who is responsible for determining when to use the safety exemption?
- 151.2035 What are the voluntary ballast water management guidelines?
- 151.2040 What are the mandatory ballast water management requirements for vessels equipped with ballast tanks that operate in the waters of the United States and are bound for ports or places in the United States?
- 151.2041 What are the mandatory ballast water reporting requirements for all vessels equipped with ballast tanks bound for ports or places in the United States?
- 151.2043 Equivalent Reporting Methods for vessels other than those entering the Great Lakes or Hudson River after operating outside the EEZ or Canadian equivalent.
- 151.2045 What are the mandatory recordkeeping requirements for vessels equipped with ballast tanks that are bound for a port or place in the United States?
- 151.2050 What methods are used to monitor compliance with this subpart?
- 151.2055 Where are the alternate exchange zones located? (Reserved)
- 151.2060 What must each application for approval of an alternative compliance technology contain? (Reserved)
- 151.2065 What is the standard of adequate compliance determined by the ANSTF for this subpart? (Reserved)

**Authority:** 16 U.S.C. 4711; Department of Homeland Security Delegation 0170.1.

**Source:** USCG-1998-3423, 66 FR 26682, May 17, 1999, unless otherwise noted..

**§151.2000 What is the purpose of this subpart?**

This subpart implements the provisions of the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) (16 U.S.C. 4701-4751), as amended by the National Invasive Species Act of 1996 (NISA).

**§Sec. 151.2005 To which vessels does this subpart apply?**

Unless exempted in Sec. 151.2010 or Sec. 151.2015, this subpart applies to all vessels, U.S. and foreign, equipped with ballast tanks, that operate in the waters of the United States and are bound for ports or places in the United States. [USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended at 66 FR58391, Nov. 21, 2001 and USCG-2002-13147, 69 FR 32869, June 14, 2004.]

**§151.2007 What are the penalties for violations of the mandatory provisions of this subpart?**

(a) A person who violates this subpart is liable for a civil penalty not to exceed \$ 27,500. Each day of a continuing violation constitutes a separate violation. A vessel operated

in violation of the regulations is liable in rem for any civil penalty assessed under this subpart for that violation.

(b) A person who knowingly violates the regulations of this subpart is guilty of a class C felony. [USCG-2002-13147, 69 FR 32869, June 14, 2004.]

**§151.2010 Which vessels are exempt from the mandatory requirements?**

Three types of vessels are exempt from the requirements in §§151.2040 and 151.2045:

(a) A crude oil tanker engaged in the coastwise trade.

(b) A Department of Defense or Coast Guard vessel subject to the requirements of section 1103 of the Act, or any vessel of the Armed Forces, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1322(a)) that is subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces" (33 U.S.C. 1322(n)).

(c) A vessel that operates exclusively within one Captain of the Port (COTP) Zone.

[USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended at 66 FR58391, Nov. 21, 2001. USCG-2002-13147, 69 FR 32869, June 14, 2004.]

**§151.2015 Is a vessel in innocent passage exempt from the mandatory requirements?**

A foreign vessel merely traversing the territorial sea of the United States (i.e., not entering or departing a U.S. port, or not navigating the internal waters of the U.S.) is exempt from the requirements of §§151.2041 and 151.2045, however such vessels are requested not to discharge ballast water into the waters of the United States unless they have followed the voluntary guidelines of §151.2035.

[USCG-2002-13147, 69 FR 32869, June 14, 2004.]

**§151.2025 What definitions apply to this subpart?**

(a) Unless otherwise stated in this section, the definitions in 33 CFR 151.1504, 33 CFR 160.203, and the United Nations Convention on the Law of the Sea apply to this part.

(b) As used in this part

*ANSTF* means the Aquatic Nuisance Species Task Force mandated under the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA).

*Captain of the Port (COTP)* means the Coast Guard officer designated as the COTP, or a person designated by that officer, for the COTP zone covering the U.S. port of destination. These COTP zones are listed in 33 CFR Part 3.

*Exclusive Economic Zone (EEZ)* means the area established by Presidential Proclamation Number 5030, dated March 10, 1983 (48 FR 10605, 3 CFR, 1983 Comp., p. 22) which extends from the base line of the territorial sea of the United States seaward 200 miles, and the equivalent zone of Canada.

*Exchange* means to replace the water in a ballast tank using one of the following methods:

(1) *Flow through exchange* means to flush out ballast water by pumping in mid-ocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water has been changed ó to minimize the number of original organisms remaining in the tank.

(2) *Empty/refill exchange* means to pump out the ballast water taken on in ports, estuarine, or territorial waters until

the tank is empty, then refilling it with mid-ocean water; masters/ operators should pump out as close to 100 percent of the ballast water as is safe to do so.

*IMO guidelines* mean the Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens (IMO Resolution A.868 (20), adopted November 1997).

*NANCPA* means the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990.

*NBIC* means the National Ballast Water Information Clearinghouse operated by the Coast Guard and the Smithsonian Environmental Research Center as mandated under NISA.

*NISA* means the National Invasive Species Act of 1996, which reauthorized and amended NANCPA.

*Port or place of departure* means any port or place in which a vessel is anchored or moored.

*Port or place of destination* means any port or place to which a vessel is bound to anchor or moor.

*United States* means the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

*Voyage* means any transit by a vessel destined for any United States port or place.

*Waters of the United States* means waters subject to the jurisdiction of the United States as defined in 33 CFR §2.05-30, including the navigable waters of the United States. For this regulation, the navigable waters include the territorial sea as extended to 12 nautical miles from the baseline, pursuant to Presidential Proclamation No. 5928 of December 27, 1988.

[USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended by USCG-2003-15404, 68 FR 37741, June 25, 2003 and USCG-2002-13147, 69 FR 32869, June 14, 2004.]

### **§151.2030 Who is responsible for determining when to use the safety exemption?**

(a) The master, operator, or person-in-charge of a vessel is responsible for the safety of the vessel, its crew, and its passengers.

(b) The master, operator, or person-in-charge of a vessel is not required to conduct a ballast water management practice (including exchange), if the master decides that the practice would threaten the safety of the vessel, its crew, or its passengers because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions. If the master uses this section, and the

(1) Vessel is on a voyage to the Great Lakes or Hudson River, the vessel must comply with the requirements of §151.1514 of subpart C of this part (Ballast water management alternatives under extraordinary conditions); or

(2) Vessel is on a voyage to any port other than the Great Lakes or Hudson River, the vessel shall not be required to perform a ballast water management practice which the master has found to threaten the safety of the vessel, its crew, or its passengers because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions.

(c) Nothing in this subpart relieves the master, operator, or person-in-charge of a vessel, of the responsibility for

ensuring the safety and stability of the vessel or the safety of the crew and passengers, or any other responsibility.

### **§151.2035 What are the voluntary ballast water management guidelines?**

(a) Masters, owners, operators, or persons-in-charge of all vessels equipped with ballast water tanks that operate in the waters of the United States are requested to take the following voluntary precautions to minimize the uptake and the release of harmful aquatic organisms, pathogens, and sediments:

(1) Avoid the discharge or uptake of ballast water in areas within or that may directly affect marine sanctuaries, marine preserves, marine parks, or coral reefs.

(2) Minimize or avoid uptake of ballast water in the following areas and situations:

(i) Areas known to have infestations or populations of harmful organisms and pathogens (e.g., toxic algal blooms).

(ii) Areas near sewage outfalls.

(iii) Areas near dredging operations.

(iv) Areas where tidal flushing is known to be poor or times when a tidal stream is known to be more turbid.

(v) In darkness when bottom-dwelling organisms may rise up in the water column.

(vi) Where propellers may stir up the sediment.

(3) Clean the ballast tanks regularly to remove sediments. Clean the tanks in mid-ocean or under controlled arrangements in port, or at dry dock. Dispose of your sediments in accordance with local, State, and Federal regulations.

(4) Discharge only the minimal amount of ballast water essential for vessel operations while in the waters of the United States.

(5) Rinse anchors and anchor chains when you retrieve the anchor to remove organisms and sediments at their place of origin.

(6) Remove fouling organisms from hull, piping, and tanks on a regular basis and dispose of any removed substances in accordance with local, State and Federal regulations.

(7) Maintain a ballast water management plan that was developed specifically for the vessel.

(8) Train the master, operator, person-in-charge, and crew, on the application of ballast water and sediment management and treatment procedures.

(b) In addition to the provisions of §151.2035(a), you (the master, operator, or person-in-charge of a vessel) are requested to employ at least one of the following ballast water management practices, if you carry ballast water, that was taken on in areas less than 200 nautical miles from any shore or in waters less than 2000 meters deep, into the waters of the United States after operating beyond the EEZ:

(1) Exchange ballast water on the waters beyond the EEZ, from an area more than 200 nautical miles from any shore, and in waters more than 2,000 meters (6,560 feet, 1,093 fathoms) deep, before entering waters of the United States.

(2) Retain the ballast water on board the vessel.

(3) Use an alternative environmentally sound method of

ballast water management that has been approved by the Coast Guard before the vessel begins the voyage. Submit the requests for approval of alternative ballast water management methods to the Commandant (G-MSO-4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. The phone number is 202-267-0500.

(4) Discharge ballast water to an approved reception facility.

(5) Under extraordinary conditions, conduct a ballast water exchange within an area agreed to by the COTP at the time of the request.

*[USCG-1998-3423, 64 FR 26682, May 17, 1999 as amended at 66 FR 58391, Nov. 21, 2001.]*

**§151.2040 What are the mandatory ballast water management requirements for vessels equipped with ballast tanks that operate in the waters of the United States and are bound for ports or places in the United States?**

(a) A vessel bound for the Great Lakes or Hudson River, which has operated beyond the EEZ (which includes the equivalent zone of Canada) during any part of its voyage regardless of intermediate ports of call within the waters of the United States or Canada, must comply with §§151.2041 and 151.2045 of this subpart, as well as with the provisions of subpart C of this part.

(b) A vessel engaged in the foreign export of Alaskan North Slope Crude Oil must comply with §§151.2041 and 151.2045 of this subpart, as well as with the provisions of 15 CFR 754.2(j)(1)(iii). Section 15 CFR 754.2(j)(1)(iii) requires a mandatory program of deep water ballast exchange unless doing so would endanger the safety of the vessel or crew.

(c) A vessel not covered by paragraphs (a) or (b) of this section and is bound for ports or places in the United States must comply with §§151.2041 and 151.2045 of this subpart.

(d) This subpart does not authorize the discharge of oil or noxious liquid substances (NLS) in a manner prohibited by United States or international laws or regulations. Ballast water carried in any tank containing a residue of oil, NLS, or any other pollutant must be discharged in accordance with applicable regulations.

(e) This subpart does not affect or supercede any requirement or prohibition pertaining to the discharge of ballast water into the waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 to 1376).

*[USCG-1998-3423, 64 FR 26682, May 17, 1999 as amended at 66 FR 58391, Nov. 21, 2001 and USCG-2002-13147, 69 FR 32869, June 14, 2004.]*

**§151.2041 What are the mandatory ballast water reporting requirements for all vessels equipped with ballast tanks bound for ports or places in the United States?**

(a) Ballast water reporting requirements exist for each vessel bound for ports or places in the United States regardless of whether a vessel operated outside of the EEZ (which includes the equivalent zone of Canada), unless exempted in §§151.2010 or 151.2015.

(b) The master, owner, operator, agent, or person-in-

charge of a vessel to whom this section applies must provide the information required by §151.2045 in electronic or written form (OMB form Control No. 1625-0069) to the Commandant, U.S. Coast Guard or the appropriate COTP as follows:

(1) For any vessel bound for the Great Lakes from outside the EEZ (which includes the equivalent zone of Canada).

(i) You must fax the required information at least 24 hours before the vessel arrives in Montreal, Quebec to either the USCG COTP Buffalo, Massena Detachment (315-769-5032), or the St. Lawrence Seaway Development Corporation (315-764-3250); or

(ii) If you are not a U.S. or Canadian Flag vessel, you may complete the ballast water information section of the St. Lawrence Seaway required 'Pre-entry Information from Foreign Flagged Vessels Form' and submit it in accordance with the applicable Seaway Notice in lieu of this requirement.

(2) For any vessel bound for the Hudson River north of the George Washington Bridge entering from outside the EEZ (which includes the equivalent zone of Canada), you must fax the information to the COTP New York (718-354-4249) at least 24 hours before the vessel enters New York, New York.

(3) For any vessel not addressed in paragraphs (b)(1) and (b)(2) of this section, which is equipped with ballast water tanks and bound for ports or places in the United States. If your voyage is less than 24 hours, you must report before departing your port or place of departure. If your voyage exceeds 24 hours, you must report at least 24 hours before arrival at your port or place of destination. All required information is to be sent to the National Ballast Information Clearinghouse (NBIC) using only one of the following means:

(ii) E-mail to NBIC@BALLASTREPORT.ORG;

(iii) Fax to 301-261-4319; or

(iv) Mail to U.S. Coast Guard, c/o SERC (Smithsonian Environmental Research Center), P.O. Box 28, Edgewater, MD 21037-0028.

(c) If the information submitted in accordance with this section changes, you must submit an amended form before the vessel departs the waters of the United States.

*[USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended at USCG-2002-13147, 69 FR 32869, June 14, 2004.]*

**§151.2043 Equivalent Reporting Methods for vessels other than those entering the Great Lakes or Hudson River after operating outside the EEZ or Canadian equivalent.**

(a) For ships required to report under §151.2041 the Chief, Environmental Standards Division (G-MSO-4), acting for the Assistant Commandant for Marine Safety, Security and Environmental Protection (G-M) may, upon receipt of a written request, consider and approve alternative methods of reporting if:

(1) Such methods are at least as effective as that required by §151.2041(c)(4); and

(2) Compliance with the requirement is economically or physically impractical.

- (i) The Chief, Environmental Standards Division (G-MSO-4) will take approval or disapproval action on the request submitted in accordance with paragraph (a) of this section within 30 days of receipt of the request.

(ii) [Reserved].

[USCG-1998-3423, 66 FR 58391, Nov. 21, 2001, as amended by USCG-2002-12471, 67 FR 41332, June 18, 2002 and USCG-2002-13147, 69 FR 32869, June 14, 2004.]

**§151.2045 What are the mandatory recordkeeping requirements for vessels equipped with ballast tanks that are bound for a port or place in the United States?**

(a) The master, owner, operator, or person in charge of a vessel bound for a port or place in the United States, unless specifically exempted by §§151.2010 or 151.2015 must keep written, records that include the following information (Note: Ballast tank is any tank or hold that carries ballast water regardless of design):

(1) *Vessel information.* Include the 6

(i) Name;

(ii) International Maritime Organization (IMO) Number (official number if IMO number not issued);

(iii) Vessel type;

(iv) Owner or operator;

(v) Gross tonnage;

(vi) Call sign; and

(vii) Port of Registry (Flag).

(2) *Voyage information.* Include the date and port of arrival, vessel agent, last port and country of call, and next port and country of call.

(3) *Total ballast water information.* Include the total ballast water capacity, total volume of ballast water on board, total number of ballast water tanks, and total number of ballast water tanks in ballast. Use units of measurements such as metric tons (MT), cubic meters (m<sup>3</sup>), long tons (LT), and short tons (ST).

(4) *Ballast Water Management.* Include the total number of ballast tanks/holds that are to be discharged into the waters of the United States or to a reception facility. If an alternative ballast water management method is used, please note the number of tanks that were managed using an alternative method, as well as the type of method used. Indicate whether the vessel has a ballast water management plan and IMO guidelines on board, and whether the ballast water management plan is used.

(5) *Information on ballast water tanks that are to be discharged into the waters of the United States or to a reception facility.* Include the following:

(i) The origin of ballast water. This includes date(s), location(s), volume(s) and temperature(s) (If a tank has been exchanged, list the loading port of the ballast water that was discharged during the exchange.)

(ii) The date(s), location(s), volume(s), method, thoroughness (percentage exchanged if exchange conducted), sea height at time of exchange if exchange conducted, of any ballast water exchanged or otherwise managed.

(iii) The expected date, location, volume, and salinity of any ballast water to be discharged into the waters of the United States or a reception facility.

(6) *Discharge of sediment.* If sediment is to be discharged within the jurisdiction of the United States include the location of the facility where the disposal will take place.

(7) *Certification of accurate information.* Include the master, owner, operator, person in charge, or responsible officer's printed name, title, and signature attesting to the accuracy of the information provided and certifying compliance with the requirements of this subpart.

(8) *Change to previously submitted information.*

(9) The master, owner, operator, or person in charge of a vessel subject to this section, must retain a signed copy of this information on board the vessel for 2 years.

(10) The information required of this subpart may be used to satisfy the ballast water record keeping requirements for vessels subject to §151.2040(a) and (b).

(11) A sample form and the instructions for completing the form are in the appendix to this subpart. If you complete the "Ballast Water Reporting Form" contained in the IMO Guidelines or complete the ballast water information section of the St. Lawrence Seaway required "Pre-entry Information Flagged Vessels Form," then you have met the requirements of this section.

[USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended at 66 FR 58391, Nov. 21, 2001.]

**§151.2050 What methods are used to monitor compliance with this subpart?**

(a) The COTP may take samples of ballast water and sediment, examine documents, and make other appropriate inquiries to assess the compliance of any vessel subject to this subpart.

(b) The master, owner, operator, or person in charge of a vessel subject to this section, shall make available to the COTP the records required by §151.2045 upon request.

(c) The NBIC will compile the data obtained from submitted reports. This data will be used, in conjunction with existing databases on the number of vessel arrivals, to assess vessel reporting rates.

**§151.2055 Where are the alternate exchange zones located? [Reserved]**

**§151.2060 What must each application for approval of an alternative compliance technology contain? [Reserved]**

**§151.2065 What is the standard of adequate compliance determined by the ANSTF for this subpart? [Reserved]**

Appendix to Subpart D of Part 151 Ballast Water Reporting Form and Instructions for Ballast Water Reporting Form

[USCG-1998-3423, 64 FR 58391, Nov. 21, 2001.]

**INSTRUCTIONS FOR BALLAST WATER REPORTING FORM**

(Please write in English and PRINT legibly.)

**Is this an Amended Ballast Reporting Form?:** Check Yes or No. Amendments should be submitted if there am

any differences between actual ballast discharges and discharge information reported in a prior form. Please mark "Yes" if this form amends a previously submitted ballast reporting form.

## SECTION 1. VESSEL INFORMATION

**Vessel Name:** Print the name of the vessel clearly.  
**IMO Number:** Fill in identification number of the vessel used by the International Maritime Organization.  
**Owner:** Write in the name of the registered owner(s) of the vessel. If under charter, enter Operator name.  
**Type:** List specific vessel type. Use the following abbreviations: bulk (bc), roro (rr), container (cs), tanker (ts), passenger (pa), oil/bulk ore (ob), general cargo (gc), refer (rf). Write out any additional vessel types.  
**GT:** What is the Gross Tonnage of the vessel?  
**Call Sign:** Write in the official call sign.  
**Flag:** Fill in the full name of the country under whose authority the ship is operating. No abbreviations please.

## SECTION 2. VOYAGE INFORMATION

**Arrival Port:** Write in the name of your first port of call after entering the U.S. EEZ or St. Lawrence Seaway. No abbreviations.  
**Arrival Date:** Fill in the arrival date to the above port. Please use European date format (DDMMYY).  
**Agent:** List agent used for current port.  
**Last Port:** Fill in the last port at which the vessel called immediately before entering the U.S. EEZ. No abbreviations please.  
**Country of Last Port:** Fill in the last country at which the vessel called immediately before entering the U.S. EEZ. No abbreviations please.  
**Next Port:** Fill in the port at which the vessel will call immediately after departing the current port ("Current Port" = "Arrival Port" above). No abbreviations please.  
**Country of Next Port:** Fill in the country of "Next Port" at which the vessel will call immediately after current port. No abbreviations please.

## SECTION 3. BALLAST WATER

**Total Ballast Water on Board: Volume:** What was the total volume of ballast water on board upon arrival into the waters of U.S. EEZ? Do not count potable water.  
**Units:** Please include volume units (m<sup>3</sup>, MT, LT, ST).  
**Number of Tanks in Ballast:** Count the number of ballast tanks and holds with ballast as vessel enters waters inside the United States EEZ.  
**Total Ballast Water Capacity:**  
**Volume:** What is the maximum volume of ballast water used when no cargo is on board?  
**Units:** Please include volume units (m<sup>3</sup>, MT, LT, ST).  
**Total Number of Tanks on Ship:** Count all tanks and holds that can carry ballast water (do not include tanks that carry potable water).

## SECTION 4. BALLAST WATER MANAGEMENT

**Total No. of tanks to be discharged:** Count only tanks and holds with ballast to be discharged into waters inside the United States EEZ or into an approved reception facility. Count all tanks and holds separately (e.g., port and starboard tanks should be counted separately).

**Of tanks to be discharged, how many Underwent Exchange:** Count all tanks that are to be discharged into waters of the United States or into an approved reception facility.

**Of tanks to be discharged, how many Underwent Alternative Management:** Count all tanks that are to be discharged into waters of the United States or an approved reception facility.

**Please specify alternative method(s) used, If any:** Specifically, describe methods used for ballast management.

**If no ballast treatment conducted, state reason why not:** This applies to all tanks and holds being discharged into waters of the United States or into an approved reception facility.

**Ballast Management Plan on board?:** Is there a written document on board, specific to your vessel, describing the procedure for ballast management? This should include safety and exchange procedures (usually provided by vessel's owner or operator). Check Yes or No.

**Management Plan implemented?:** Do you follow the above management plan? Check Yes or No.

**IMO Ballast Water Guidelines on board?:** Is there a copy of the International Maritime Organization (IMO) Ballast Water Guidelines on board this vessel (i.e. "Guidelines for the Control and Management of Ship's Ballast Water to Minimize the Transfer Aquatic Organisms and Pathogens", [Res. A.868(20)])? Check Yes or No.

## SECTION 5. BALLAST WATER HISTORY

*(Record all tanks to be de-ballasted in port state of arrival: If none, go to #6)*

**Tanks/Holds:** Please list all tanks and holds that you have discharged or plan to discharge into waters of the United States or into an approved reception facility (write out, or use codes listed below table). Follow each tank across the page listing all source(s), exchange events, and/or discharge events separately. List each tank on a separate line. Port and starboard tanks with identical ballast water histories may be included on same line. Please use an additional page if necessary, being careful to include ship name, date, and IMO number at the top of each. For tanks with multiple sources: list 3 largest sources from last 30 days on separate lines. If more than 3 sources, include a 4th line for the respective tank(s) that indicated "Multiple" in port column and list the remaining tank volume not included in the 3 largest sources (i.e., total tank volume minus volume of the 3 largest sources). See example #1 on sample ballast reporting form.

**Ballast Water Sources:**

**Date:** Record date of ballast water uptake. Use European format (DDMMYY).

**Port or latitude/longitude:** Record location of ballast water uptake, no abbreviations for ports.

**Volume:** Record total volume of ballast water uptake, with volume units.

**Temp:** Record water temperature at time of ballast water uptake, in degrees Celsius (include units).

**Ballast Water Management Practices:**

**Date:** Date of ballast water management practice. If exchanges occurred over multiple days, list the day when exchanges were completed. Use European format (DDMMYY).

**Endpoint or latitude/longitude:** Report location of ballast water management practice. If an exchange occurred over an extended distance, list the end point latitude and longitude.

**Volume:** Report total volume of ballast water moved (i.e., gravitated and pumped into tanks, discharged to reception facility) during management practice, with units.

**% Exchange:** (Note: for effective flow through exchange, this value should be at least 300%).

**% Exchange =** Total Volume added by Refill or Flow Through, divided by (÷) Capacity of Ballast Tank or Hold multiplied by (x) 100%

**Method:** Indicate management method using code (ER = empty/refill, FT = flow through, ALT = alternative method).

**Sea Ht. (m):** Estimate the sea height in meters at the time of the ballast water exchange if this method was used. (Note: this is the combined height of the wind-seas and swell, and does not refer to water depth).

**Ballast Water Discharges:**

**Date:** Date of ballast water discharge. Use European format (DDMMYY).

**Port or latitude/longitude:** Report location of ballast water discharge, no abbreviations for ports.

**Volume:** Report volume of ballast water discharged, with units.

**Salinity:** Document salinity of ballast water at the time of discharge, with units (i.e., specific gravity (sg) or parts per thousand (ppt)).

**SECTION 6. TITLE AND SIGNATURE**

**Responsible officer's name and title (printed) and signature:** Print name and title, include signature.

**APPENDIX TO SUBPART D OF PART 151--BALLAST WATER REPORTING FORM AND INSTRUCTIONS FOR BALLAST WATER REPORTING FORM**

**Where to send this form:**

Vessels equipped with ballast water tanks bound for all ports or places within the waters of the United States after operating outside the EEZ (which includes the equivalent zone of Canada). You must submit your report as detailed below.

**Vessels bound for Great Lakes:**

Fax the information at least 24 hours before the vessel arrives in Montreal, Quebec, to the USCG COTP Buffalo, Massena Detachment (315-769-5032) or to the Saint Lawrence Seaway Development Corporation (315-764-3250).

In lieu of faxing, vessels that are not U.S. or Canadian flagged may complete the ballast water information section of the St. Lawrence Seaway "Pre-entry Information from Foreign Flagged Vessel Form".

**Vessels bound for the Hudson River North Of George Washington Bridge**

Fax the form to the COTP New York at **718-354-4249** at least 24 hours before the vessel arrives at New York, New York.

**\*Note:** Vessels entering COTP New York Zone which are not bound up the Hudson River north of the George Washington Bridge should submit the form in accordance with the instructions for "All other U.S. Ports".

**Vessels bound for all other United States Ports**

Report before departing the port or place of departure if voyage is less than 24 hours, or at least 24 hours before arrival at the port or place of destination if the voyage exceeds 24 hours; and submit the required information to the National Ballast Information Clearinghouse (NBIC) by one of the following means:

Via the Internet at <http://invasions.si.edu/NBIC/bwform.html>

E-mail to [NBIC@BALLASTREPORT.ORG](mailto:NBIC@BALLASTREPORT.ORG);

Fax to 301-261-4319; or

Mail the information to U.S. Coast Guard, c/o SERC.

P.O. Box 28, Edgewater, MD

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**Vessels that have not operated outside the EEZ**, which are equipped with ballast water tanks and are bound for all ports or places within the waters of the United States.

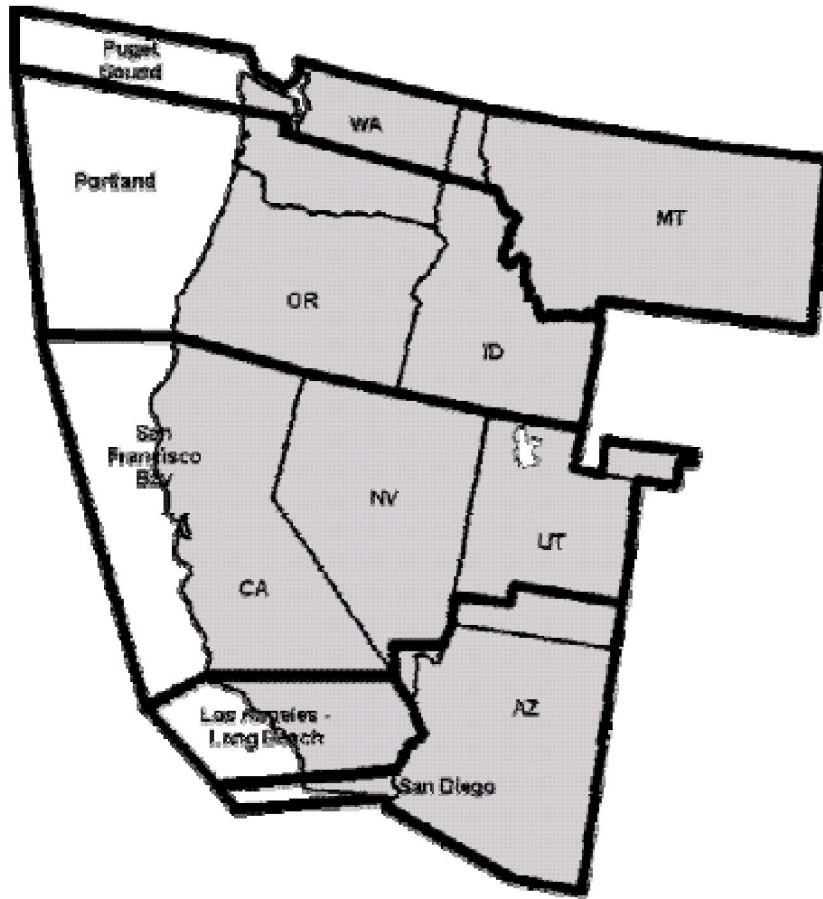
You must submit your report as detailed below:

All U.S. ports including the Great Lakes and Hudson River North of George Washington Bridge report before departing the port or place of departure if voyage is less than 24 hours, or at least 24 hours before arrival at the port or place of destination if the voyage exceeds 24 hours; and submit the required information to the National Ballast Information Clearinghouse (NBIC) by e-mail, FAX, or snail mail as listed above.





WEST COAST COTP ZONES



ALASKA COTP ZONES

