

Transfer of Harmful Aquatic Organisms and Pathogens (IMO Resolution A.868 (20), adopted November 1997).

*NANPCA* means the Nonindigenous 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 NANPCA.

*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 §2.38, 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; USCG-2002-13147, 69 FR 32869, June 14, 2004; USCG-2003-14273, 69 FR 44961, July 28, 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 limita-

tions, 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 required ballast water management practices for my vessel?**

(a) Masters, owners, operators, or persons-in-charge of all vessels equipped with ballast water tanks that operate in the waters of the U.S. must:

(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.

(vii) Areas with pods of whales, convergence zones, and boundaries of major currents.

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(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 has been developed specifically for the vessel that will allow those responsible for the plan's implementation to understand and follow the vessel's ballast water management strategy.

(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 paragraph (a) of this section, if the vessel carries ballast water that was taken on in areas less than 200 nautical miles from any shore into the waters of the U.S. after operating beyond the Exclusive Economic Zone, you (the master, operator, or person-in-charge of a vessel) must employ at least one of the following ballast water management practices:

(1) Perform complete ballast water exchange in an area no less than 200 nautical miles from any shore prior to discharging ballast water in U.S. waters;

(2) Retain ballast water onboard the vessel; or

(3) Prior to the vessel entering U.S. waters, use an alternative environmentally sound method of ballast water management that has been approved by the Coast Guard.

[USCG-1998-3423, 64 FR 26682, May 17, 1999, as amended at 66 FR 58391, Nov. 21, 2001; USCG-2003-14273, 69 FR 44961, July 28, 2004; USCG-2002-14273, 69 FR 60309, Oct. 8, 2004]

**§ 151.2036 If my voyage does not take me into waters 200 nautical miles or greater from any shore, must I divert to conduct a ballast water exchange?**

A vessel will not be required to deviate from its voyage, or delay the voyage, in order to conduct a ballast water exchange.

[USCG-2003-14273, 69 FR 44961, July 28, 2004]

**§ 151.2037 If my vessel cannot conduct ballast water management practices because of its voyage and/or safety concerns, will I be prohibited from discharging ballast water?**

(a) A vessel that cannot practicably meet the requirements of §151.2035(b)(1) because its voyage does not take it into waters 200 nautical miles or greater from any shore for a sufficient length of time and elects to retain ballast water on board, or because of the safety concerns contained in §151.2030, will not be prohibited from the discharge of ballast water in areas other than the Great Lakes and the Hudson River. However, the vessel must discharge only that amount of ballast water operationally necessary to ensure the safety of the vessels for cargo operations and make ballast water records available to the local Captain of the Port upon request.

(b) A vessel that cannot practicably meet the requirements of §151.2035(b)(3) because its alternative environmentally sound ballast water management method is inoperable must employ one of the other ballast water management practices stated in §151.2035(b). If the vessel cannot employ other ballast water management practices due to voyage or safety concerns, the vessel will not be prohibited from the discharge of ballast water in areas other than the Great Lakes and the Hudson River. However, the vessel must discharge only that amount of ballast water operationally necessary to ensure the safety of the vessels for cargo operations and make ballast water records available to the local Captain of the Port upon request.

[USCG-2003-14273, 69 FR 44961, July 28, 2004]