

§ 151.2000

33 CFR Ch. I (7-1-04 Edition)

§ 151.2000 What is the purpose of this subpart?

This subpart implements the provisions of the Nonindigenous 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).

§ 151.2005 To which vessels does this subpart apply?

(a) Sections 151.2000 through 151.2035(a) of this subpart apply to all vessels, U.S. and foreign, equipped with ballast tanks that operate in the waters of the United States.

(b) In addition, §§ 151.2035(b) through 151.2065 apply to all vessels, U.S. and foreign, equipped with ballast tanks, that enter the waters of the United States after operating beyond the Exclusive Economic Zone, except those vessels exempted in § 151.2010 and § 151.2015.

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

EFFECTIVE DATE NOTE: By USCG-2002-13147, 69 FR 32869, June 14, 2004, § 151.2005 was revised, effective Aug. 13, 2004. For the convenience of the user the revised text is set forth as follows:

§ 151.2005 To which vessels does this subpart apply?

Unless exempted in § 151.2010 or § 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.

§ 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]

EFFECTIVE DATE NOTE: By USCG-2002-13147, 69 FR 32869, June 14, 2004, § 151.2007 was added, effective Aug. 13, 2004.

§ 151.2010 Which vessels are exempt from the mandatory requirements?

Four 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 passenger vessel equipped with a functioning treatment system designed to kill aquatic organisms in the ballast water. The treatment system must be utilized for ballast water discharged into the waters of the United States and it must operate as designed.

(c) 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)).

(d) A vessel that will discharge ballast water or sediments only at the same location where the ballast water or sediments originated. The ballast water or sediments must not mix with ballast water or sediments other than those taken on in areas more than 200 nautical miles from any shore and in waters more than 2,000 meters (6,560 feet, 1,093 fathoms) deep.

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

EFFECTIVE DATE NOTE: By USCG-2002-13147, 69 FR 32869, June 14, 2004, § 151.2010 was amended in the introductory text by removing the word "Four" and adding, in its place, the word "Three"; removing paragraphs (b) and (d); redesignating paragraph (c) as paragraph (b); and adding new paragraph (c), effective Aug. 13, 2004. For the convenience of the user the added text is set forth as follows:

§ 151.2010 Which vessels are exempt from the mandatory requirements?

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

§ 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 §§ 151.2040 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.

EFFECTIVE DATE NOTE: By USCG-2002-13147, 69 FR 32869, June 14, 2004, § 151.2015 was amended by removing the text “151.2040”, and adding in its place, the text “151.2041”, effective Aug. 13, 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 Nonindigenous 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 first U.S. port of destination. These COTP zones are listed in 33 CFR part 3.

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

(a) *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—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).

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.

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 from a port or place outside of the EEZ, including intermediate stops at a port or place within the EEZ. For the purpose of this rule, a transit by a vessel from a United States port to any other United States port, if at any time the vessel operates outside the EEZ or equivalent zone of Canada, is also considered a voyage.

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]

EFFECTIVE DATE NOTE: By USCG-2002-13147, 69 FR 32869, June 14, 2004, § 151.2025(b) was amended, in the definition for “Exchange,” by redesignating paragraph (a) as (1); by revising the definitions of “Captain of the Port (COTP)” and “Voyage”; and by adding, in alphabetical order, the definitions for “Exclusive Economic Zone (EEZ)”, “Port or place of departure” and “Port or place of destination”, effective Aug. 13, 2004. For the convenience of the user, the revised and added text is set forth as follows:

§ 151.2025 What definitions apply to this subpart?

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(b) * * *

Captain of the Port (COTP) means the Coast Guard officer designated as the COTP, or a