

§ 151.2007

for ports or places in the United States.

[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 FR 58391, 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 U.S. (*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 this subpart.

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

§ 151.2025 What definitions apply to this subpart?

(a) Unless otherwise stated in this section, the definitions in 33 CFR

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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).

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 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.

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—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.

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.

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.

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 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 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.

(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