

above, the Coast Guard is developing regulations to convert the voluntary guidelines in 33 CFR part 151, subpart D to a mandatory BWM program.

NANPCA and NISA authorize the Coast Guard to approve alternate ballast water treatment (BWT) methods that are found to be at least as effective as ballast water exchange (BWE) in preventing and controlling infestations of aquatic nuisance species (ANS). Therefore, in order to evaluate the effectiveness of alternative BWT methods, the Coast Guard must first define for programmatic purposes what "as effective as [BWE]" means. On March 4, 2002, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) titled "Standards for Living Organisms in Ship's Ballast Water Discharged in U.S. Waters" (67 FR 9632). Along with proposing BWT goals and standards, one of the purposes of the ANPRM was to present our approach to clarifying this term. The comment period on the ANPRM closed on June 3, 2002, and the Coast Guard is now analyzing the comments.

The Coast Guard is also planning on promulgating rules to allow for approval of ship-board installation of experimental BWT technologies.

Discussion of Proposed Rule

The proposed amendments to 33 CFR part 151 would achieve two objectives. First, penalty provisions would be clearly spelled out in both subparts C and D, in accordance with NANPCA and NISA. Violators of either the mandatory exchange provisions (for vessels bound for the Great Lakes or portions of the Hudson River) or the

mandatory reporting and recordkeeping provisions (for all vessels bound for ports or places within the United States) would be liable for a civil penalty of up to \$25,000 for each violation, with each day of a continuing violation equaling a separate violation. Knowing violations of either provision would be class C felonies. These changes can be found in proposed sections 151.1518 and 151.2007.

The second change would increase the number of vessels subject to the reporting and recordkeeping provisions of subpart D. This expansion of the reporting population is being proposed in order to generate the data that will allow for a more thorough understanding of ballast water delivery and management practices and how these relate to invasions of ANS from ships' ballast water on both a national and regional basis. This information should provide a clearer picture of the realities of BWM and ANS invasions over time and lead to a more effective and efficient program.

Currently, only those vessels entering United States waters after operating outside of the EEZ (which for the purposes of NANPCA as amended by NISA includes the equivalent zone of Canada) must submit ballast water management reports and keep accurate ballast water management records. Under the proposed changes, all vessels operating in United States waters bound for ports or places in the United States would have to submit these reports and keep records, regardless of whether they operated outside of the EEZ. The proposed reporting requirements are detailed in Tables 1 and 2, below. Only

crude oil tankers engaged in coastwise trade, Department of Defense and Coast Guard vessels, and those vessels operating solely within one Captain of the Port (COTP) zone would be exempt from the reporting and recordkeeping requirements.

The proposed changes to the regulatory text in subpart D (with the exception of section 151.2007) would achieve this second objective, while improving the readability of the subpart. One proposed change that should be highlighted is in sections 151.2010(b) and (d), where we are proposing the deletion of the exemptions for "a passenger vessel equipped with a functioning treatment system designed to kill aquatic organisms in the ballast water" and "a vessel that will discharge ballast water or sediments only at the same location where the ballast water or sediments originated". These exemptions were intended to apply to a requirement to conduct a ballast water exchange (BWE). As there are no requirements for BWE outside of the Great Lakes and Hudson River North of George Washington Bridge, there is nothing in 33 CFR 151 Subpart D to be exempted from and the continued inclusion of this wording only leads to confusion. Requiring these previously exempted vessels to submit BWM reports will allow the U.S. Coast Guard to gain a more thorough understanding of ballast water delivery and management practices. In the future, when ballast water exchange becomes mandatory (as we expect it will), we will ensure that these exemptions are re-inserted into the regulations as appropriate.

TABLE 1.—WHERE AND WHEN MUST A VESSEL SUBMIT A REPORT IF THEY ARE ENTERING THE WATERS OF THE UNITED STATES AFTER OPERATING OUTSIDE THE EEZ?

Bound for:	You must submit your report as detailed below:
The Great Lakes	Fax the information to the U.S. Coast Guard COTP Buffalo, Massena Detachment (315-764-3283) or to the St. Lawrence Seaway Development Corporation (315-764-3250) at least 24 hours before the vessel arrives in Montreal, Quebec. In lieu of faxing, vessels that are not U.S. or Canadian flagged vessels may complete the ballast water information section of the St. Lawrence Seaway "Pre-entry Information from Foreign Flagged Vessel Form".
Hudson River north of the George Washington Bridge	Fax the information 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 proceeding up the Hudson River north of George Washington Bridge should submit their reports in accordance with the instructions in the following block.
All U.S. ports other than the Great Lakes or the Hudson River North of the 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 one of the following means: Internet at http://invasions.si.edu/ballast.htm ; E-mail to ballast@serc.si.edu ; Fax to 301-261-4319; or Mail to U.S. Coast Guard, c/o SERC, P.O. Box 28, Edgewater, MD 21037-0028.