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NAVIGATION AND VESSEL INSPECTION CIRCULAR 07-04, CHANGE 1

Subj: CH-1, BALLAST WATER MANAGEMENT FOR THE CONTROL OF AQUATIC NUISANCE SPECIES IN THE WATERS OF THE UNITED STATES

Ref: (a) Federal Register Final Rule (69 FR 32864, June 14, 2004) "Penalties for Non-submission of Ballast Water Management Reports"
(b) Federal Register Final Rule (69 FR 44952, July 28, 2004) "Mandatory Ballast Water Management Program for U.S. Waters"

1. PURPOSE. This document revises Navigation and Vessel Inspection Circular (NVIC) 07-04, and incorporates changes made by reference (b) and Commandant (G-MOC) Policy Letter 04-06, to provide additional guidance for Coast Guard personnel, vessel owners and operators, masters, shipping agents and persons-in-charge concerning compliance with, and enforcement of, the U.S. Coast Guard's new Mandatory Ballast Water Management (BWM) Program.

2. ACTION.

   a. Vessel masters, owners, operators, or persons-in-charge. The masters, owners, operators and persons-in-charge of vessels equipped with ballast water tanks, bound for ports or places in the U.S. (including the Great Lakes and Hudson River, north of the George Washington Bridge), shall ensure that their vessels comply with the BWM requirements of 33 CFR Part 151, subparts C and D (as applicable).

   b. Vessel shipping agents. The shipping agents for vessels equipped with ballast water tanks, bound for ports or places in the U.S., should be aware of the BWM requirements and assist visiting vessels with understanding and complying with the BWM requirements of 33 CFR Part 151, subparts C and D.

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c. The National Ballast Information Clearinghouse (NBIC). The NBIC is responsible for compiling and analyzing BWM information provided through the mandatory ballast water reporting system.

d. U.S. Coast Guard. Captains of the Port (COTPs) and Officers in Charge, Marine Inspection (OCMIs) shall adhere to the guidance outlined by this NVIC and bring it to the attention of the appropriate individuals in the marine industry within their zones. BWM enforcement and education shall be conducted as part of regularly scheduled Port State and Flag State boardings and inspections, as well as other compliance verification and outreach efforts. All units involved with BWM boardings are expected to maintain a local training and qualification program consistent with guidance provided by District, Area and Headquarters Aquatic Nuisance Species (ANS) program managers and coordinators. This NVIC is available on the World Wide Web at: http://www.uscg.mil/hq/g-m/nvic/. The Coast Guard will distribute it by electronic means only.

3. DIRECTIVES AFFECTED. Navigation and Vessel Inspection Circular No. 08-99 (NVIC 8-99), "Guidance for the Enforcement of the 1999 Amendments to Title 33 Code of Federal Regulations (CFR) Part 151, Implementation of the National Invasive Species Act of 1996 (NISA)," is cancelled. Commandant (G-MOC) Policy Letter 04-06, "Guidance for Ballast Water Regulations," dated August 10, 2004, is cancelled.

4. BACKGROUND.

a. In response to the ecological and economic impacts of zebra mussel invasions to the Great Lakes, Congress enacted the "Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990" (NANPCA, Public Law 101-646) on November 29, 1990. NANPCA established the Coast Guard's regulatory jurisdiction over BWM, mandated a regional BWM program for the Great Lakes, and called for studies to document the need for a national BWM program. NANPCA also required an assessment of BWM practices in all U.S. ports and mandated development of mariner education and assistance programs.

b. To implement NANPCA, the Coast Guard published a final rule in the Federal Register on April 8, 1993, titled "Ballast Water Management for Vessels Entering the Great Lakes" (58 FR 18330). The rule established in 33 CFR Part 151, subpart C, the mandatory BWM requirements for ships entering the waters of the Great Lakes after operating outside the U.S. Exclusive Economic Zone (EEZ). On December 30, 1994, the mandatory requirements of subpart C were expanded to include waters of the Hudson River, north of the George Washington Bridge (59 FR 67632).

c. The continued introduction and spread of ANS prompted Congress to enact the "National Invasive Species Act of 1996" (NISA) on October 26, 1996. NISA reauthorized and amended NANPCA and emphasized the significant role of ships' ballast water in the spread of ANS. Specifically, NISA mandated the continuation of the Great Lakes mandatory BWM program, charged the Coast Guard with establishing a voluntary BWM program for all other U.S. ports, and required vessels to submit BWM reports. Additionally, NISA directed the Coast Guard to submit a report to Congress on the effectiveness of the voluntary BWM

program and make the voluntary program mandatory if the rate of compliance with the voluntary guidelines, or mandatory reporting requirements, were determined to be inadequate.

d. To meet the BWM information requirements outlined in NISA, the Coast Guard and the Smithsonian Environmental Research Center (SERC) created the National Ballast Information Clearinghouse (NBIC) in 1997. The NBIC is physically located at the SERC, in Edgewater, MD, and is supported by the Coast Guard via a cooperative agreement with the Smithsonian Institution. The NBIC functions as a single location for the collection, synthesis, analysis, and interpretation of national data concerning BWM and ballast-mediated invasions.

e. On May 17, 1999, the Coast Guard published an interim rule in the Federal Register (64 FR 26672) titled "Implementation of the National Invasive Species Act of 1996." The rule established requirements in 33 CFR Part 151, subpart D, to implement the mandates of NISA. It created mandatory BWM reporting and recordkeeping requirements and promoted voluntary BWM practices (including ballast water exchange) for vessels entering all waters of the United States, after operating outside the EEZ. On November 21, 2001, the interim rule was amended with changes and published as a final rule in the Federal Register (66 FR 58381).

f. On June 3, 2002, the Coast Guard submitted the first BWM Report to Congress as mandated by NISA. The report, titled "United States Coast Guard Report to Congress on the Voluntary National Guidelines for Ballast Water Management," highlighted the data compiled by the NBIC and concluded that compliance with the mandatory reporting requirements was insufficient to allow for an accurate assessment of the voluntary BWM program. The report also stated the Secretary's intention to have the Coast Guard take additional actions to reduce the inflow of ANS.

g. Since the report to Congress, the Coast Guard has moved forward with four projects aimed at reducing ANS transfers from ballast water. The first project implements penalties for failing to submit BWM reports and failing to maintain BWM records; and expands the number of vessels required to submit the BWM reports to the NBIC, to include all vessels equipped with ballast water tanks (with some exceptions) that operate in U.S. waters (see reference (a)). The second project creates a new national mandatory BWM program by changing the voluntary guidelines of 33 CFR 151, subpart D, into mandatory practices required by all vessels equipped with ballast water tanks (see reference (b)). The third project helps facilitate shipboard testing of ballast water treatment systems, in order to help the marine industry develop more options for BWM (NVIC 01-04). And the final project involves developing a ballast water discharge standard, which is essential for determining whether alternative BWM methods are environmentally sound and effective at preventing introductions of ANS.

h. To address the international concerns of ANS transport, the U.S. government has engaged in international negotiations through the International Maritime Organization (IMO), Marine Environment Protection Committee (MEPC). The Coast Guard leads the U.S. delegation that

consists of representatives from six federal agencies, as well as the port and shipping industry. In February 2004, the IMO adopted the "International Convention for the Control and Management of Ships' Ballast Water and Sediments." This Convention will enter into force with the ratification of not less than thirty States representing at least thirty five percent of the gross tonnage of the world's fleet.

5. DISCUSSION. Transitioning from voluntary guidelines to a mandatory national BWM program, with penalties for non-compliance, required that changes be made to 33 CFR Part 151, subparts C and D. The enclosures to this NVIC provide guidance to these changes and additional enclosures will be added as new regulations are promulgated. More information on the Coast Guard's BWM Program and associated issues can be obtained from the following website: http://wwwstage.uscg.mil/hq/g-m/mso/ans.htm.

6. DISCLAIMER. While the guidance contained in this document may assist the industry, the public, the Coast Guard, and other federal and state regulators in applying statutory and regulatory requirements, this guidance is not a substitute for applicable legal requirements, nor is it in itself a rule. Thus, it is not intended to nor does it impose legally binding requirements on any party, including the Coast Guard, other federal agencies, the states, or the regulated community.

7. FORMS AVAILABILITY. *Ballast Water Reporting Forms* can be retrieved at http://invasions.si.edu/NBIC/bwform.html and reproduced locally. Request for forms CG-835 (stock point number 753000F010250) and CG-5437 (stock point number 753001GF1960) can be made from the Engineering Logistics Center in Baltimore, MD. CG-840 booklets can be retrieved, and produced locally at http://www.uscg.mil/tcyorktown/mschools/MII/CG840.shtm.

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Assistant Commandant for Marine Safety,
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Encl: (1) Reporting and Recordkeeping Guidance
(2) Mandatory BWM Guidance
(3) Verifying Compliance with the Mandatory BWM Practices
(4) Enforcement Measures for the Mandatory BWM Program
(5) Exam Book for Verifying BWM Compliance

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List of Acronyms

ANS	Aquatic Nuisance Species
BO	Coast Guard Boarding Officer
BWE	Ballast Water Exchange
BWM	Ballast Water Management
CFR	Code of Federal Regulations
COTP	Coast Guard Captain of the Port
CRB	Cargo Record Book
DOD	Department of Defense
EEZ	Exclusive Economic Zone
G-MOC	Coast Guard Office of Compliance
G-MSO-4	Coast Guard Environmental Standards Division
IMO	International Maritime Organization
IO	Coast Guard Investigating Officer
LOU	Letter of Undertaking
LOW	Letter of Warning
MEPC	Marine Environment Protection Committee
MI	Coast Guard Marine Inspector
MISLE	Marine Information for Safety and Law Enforcement
NANPCA	Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990
NBIC	National Ballast Information Clearinghouse
NISA	National Invasive Species Act of 1996
NM	Nautical Mile
NOBOB	No Ballast On Board
NOV	Notice of Violation
OCMI	Coast Guard Officer In Charge, Marine Inspection
OMB	U.S. Office of Management and Budget
ORB	Oil Record Book
PPE	Personal Protective Equipment
PPT	Parts Per Thousand
PSCO	Coast Guard Port State Control Officer
S&R	Suspension and Revocation
SCT	Salinity, Conductivity and Temperature Meter
SERC	Smithsonian Environmental Research Center
STEP	Shipboard Technology Evaluation Program

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ENCLOSURE 1:

REPORTING AND RECORDKEEPING GUIDANCE

Enclosure 1 - REPORTING AND RECORDKEEPING GUIDANCE

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Introduction

This enclosure explains the Ballast Water Management (BWM) reporting and recordkeeping requirements of 33 CFR 151, subpart D, as amended by the June 14, 2004 final rule, and provides guidance for foreign and domestic vessel owners, operators, agents, and persons-in-charge for complying with these requirements. The final rule titled "Penalties for Non-submission of Ballast Water Management Reports," implements a maximum $27,500 a day Civil Penalty and Class C Felony provisions for failing to submit BWM reports and failing to maintain BWM records. The final rule also expands existing BWM reporting and recordkeeping requirements to include all vessels equipped with ballast water tanks that transit to any U.S. port or place of destination, regardless of whether the vessel operated outside the Exclusive Economic Zone (EEZ) of the U.S. or equivalent zone of Canada.

A. Applicability

The master, owner, operator or person-in-charge of any vessel equipped with ballast water tanks, that is bound for ports or places in U.S. waters, must ensure complete and accurate BWM reports are submitted in accordance with 33 CFR 151.2041, and signed BWM records are kept on board the vessel for a minimum of two years in accordance with 33 CFR 151.2045. Shipping agents of vessels operating in U.S. waters should, where possible, facilitate efforts to submit complete, accurate and timely reports.

1. Definitions

The following definitions apply to both the BWM reporting and recordkeeping requirements in this enclosure and the mandatory BWM practices described in Enclosure (2).

a. Ballast Tank as defined in 33 CFR 151.1504, means *any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold is designed for that purpose.* Tanks filled with water solely for the purpose of inspection and repair are not considered ballast tanks for the purpose of these rules.

b. Ballast Water as defined under 33 CFR 151.1504, means *any water and suspended matter taken on board a vessel to control or maintain trim, draft, stability, or stress of the vessel, regardless of how it is carried.* Water sealed in ballast tanks, and water in permanently ballasted tanks changed only in connection with dry docking is not considered ballast water for the purpose of these rules. Water taken into ballast tanks from commercial or municipal fresh water sources is also not considered ballast water for the purpose of these rules. Vessels which operate exclusively with permanent ballast water and/or water from commercial or municipal sources in ballast tanks are not subject to the requirements of 33 CFR 151 parts C and D.

c. Port or Place of Destination as defined under 33 CFR 151.2025, means *any port or place where a vessel is bound to anchor or moor;*

- For barges equipped with ballast tanks, reports must be submitted only for stops where cargo operations are conducted, after entering a COTP zone. Owners, operators or

persons-in-charge of barges are not required to submit a report under these rules when the vessel stops for fleeting, waits for locks, or purposes other than cargo operations.

- For towing vessels equipped with ballast tanks, reports must be submitted when the vessel conducts fueling operations after entering a COTP zone; this includes fueling operations conducted from a barge while both vessels are underway. Owners, operators or persons-in-charge of barges are not required to submit a report under these rules when the vessel stops for fleeting, waits for locks, or purposes other than fueling operations.

- Because of the unique configuration of the boundary between the zones of COTP Morgan City and COTP New Orleans, vessels which operate exclusively within these zones are not required to report or maintain records under 33 CFR 151.2041 and 151.2045. Vessels equipped with ballast tanks anchoring or mooring at a port or place in one of these zones, after operating solely in the other, are not required to submit a report.

2. Exemptions

As amended, the only vessels that are exempt from the mandatory BWM reporting and recordkeeping requirements of 33 CFR 151.2041 and 151.2045 are:

a. Crude oil tankers engaged in coastwise trade

This exemption applies only to vessels carrying unrefined crude oil product from one U.S. place to another. Included in this exemption are vessels that carry crude oil from the Alaskan Pipeline to refineries in other U.S. states, including Hawaii. Also included are U.S. vessels that take on crude oil from lightering operations conducted within U.S. waters, then subsequently transports the crude to other U.S. places.

b. Department of Defense (DOD), Coast Guard, and Armed Service Vessels

This exemption includes any vessel owned by the U.S. DOD and vessels operated by the U.S. Coast Guard or other Armed Services as defined within 33 USC 1322 (a) and (n). This exemption does not include time or voyage chartered vessels, or non-DOD, Coast Guard or Armed Service vessels defined solely as "public vessels" under 33 USC 1322 (a).

c. Vessels that operate exclusively within one COTP zone

Vessels that operate exclusively within a single COTP zone do not have to submit BWM reports and do not have to maintain BWM records on board for two years. Vessels that operate in more than one COTP zone, but conduct all ballast operations (ballast uptake and discharge) exclusively in one COTP zone, regardless of the number of voyages the vessel makes, are also not required to report or maintain BWM records under 33 CFR 151.2041 and 151.2045. For example, a vessel which operates in more than one COTP zone, which only ballasts and deballasts in connection with cargo operations at a particular facility, or in connection with going under low bridges in a single COTP zone, does not have to report under 33 CFR 151.2041 if, for all voyages, the ballast operations occur only within that

single COTP zone.

3. Great Lakes and Hudson River Applicability

Prior to the publication of the "Penalties for Non-submission of Ballast Water Management Reports" final rule, there were no penalty provisions in the regulations for noncompliance with the regional BWM requirements of the Great Lakes and Hudson River, north of the George Washington Bridge. This final rule establishes penalties for noncompliance with the BWM requirements of the Great Lakes, Hudson River, and all ports or places in U.S. waters. It also establishes new reporting requirements for those vessels that declare no ballast on board (NOBOB), and for transits that occur between all COTP zones, including zones in the Great Lakes.

4. Vessels Engaged in the Foreign Export of Alaskan North Slope Crude Oil

The BWM reporting and recordkeeping requirements, and associated penalties, extend to vessels engaged in the foreign export of Alaskan North Slope Crude Oil. These vessels must ensure compliance with the reporting and recordkeeping provisions of 33 CFR 151.2041 and 151.2045 (outlined in this enclosure) in addition to the requirements of 15 CFR 754.2(j)(3) (not addressed within this enclosure).

B. BWM REPORTING GUIDANCE

1. Reporting Requirements for all U.S. Ports or Places (33 CFR 151.2041)

All vessels, both foreign and domestic, that are bound for ports or places of the U.S. and are equipped with ballast water tanks, must submit BWM reports, regardless of whether the vessel operated outside the U.S. EEZ. This includes those ships that declare NOBOB and ships not discharging ballast.

The reports must be submitted for all voyages where a vessel enters a COTP zone (whether from another COTP zone or from outside the EEZ) to anchor or moor, but not for voyages to ports or places solely within a single COTP zone. For example, if a vessel transits from Miami, FL, to Port Everglades, FL, a BWM report does not have to be submitted if the voyage keeps the vessel inside the COTP Miami zone. However, if the same vessel transits outside of the COTP Miami zone and back in, or transits from Miami to Port Canaveral, FL (COTP Jacksonville zone), a BWM report must be submitted.

Reports are also not required by vessels that enter other COTP zones, but only conduct ballast operations (ballast uptake and discharge) in a single COTP zone. For example, if a vessel regularly makes transits along the Illinois River from the COTP Chicago zone to COTP St. Louis zone, and only pumps on ballast in the COTP Chicago zone to get under a bridge in that zone, BWM reports would not have to be submitted as long as the ballast is pumped back off the vessel in the COTP Chicago zone, and all ballasting operations on any transit always occur only in that zone.

Diagrams of the approximate Coast Guard COTP zone boundaries, with a list of common U.S. ports within each zone, are provided in Appendix A to Enclosure (1) of this NVIC to help

determine when a BWM report must be submitted. The exact delineation of all Coast Guard COTP zone boundaries may be found in 33 CFR Part 3.

Each report that is submitted must only include BWM information specific to an individual voyage. Single reports that cover more than one voyage are not allowed unless the vessel has been accepted into the Equivalent Reporting Program described in Section (B)(4)(a) of this enclosure.

The master, owner, operator, agent and/or person-in charge is 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 (see Table 1).

2. Great Lakes and Hudson River Reporting Requirements

Upon entry to the Great Lakes or Hudson River, north of the George Washington Bridge, after operating outside the U.S. EEZ, regional BWM reports must continue to be submitted in accordance with 33 CFR 151.2041(b)(1) and (2) respectively. Vessels operating inside the Great Lakes, or entering the Great Lakes without transiting outside the U.S. EEZ, however, must now submit BWM reports to the NBIC for all U.S. ports or places in accordance with 33 CFR 151.2041(b)(3) and the guidance provided within this Enclosure (see Table 1).

3. Online Reporting

Online reporting via the NBIC website, or e-mail attachments downloadable from the NBIC website, are the preferred methods for submitting *Ballast Water Reporting Forms*. Reporting via these methods helps ensure the correct information is transmitted and eliminates many of the common problems associated with submitting reports via other methods. In addition, use of the NBIC online reporting methods provides the user with proof of receipt messages that can be printed and kept on board with the ship's BWM records. These messages provide proof that a *Ballast Water Reporting Form* was submitted to NBIC and helps streamline the Coast Guard BWM verification process.

When submitting *Ballast Water Reporting Forms* online, the responsible officer's name and title may be printed in Section 6 without a signature, however, the required onboard BWM records must be signed. Therefore, the best way to meet both the reporting and recordkeeping requirements is to print out the submitted form, sign it, and keep it on board the vessel for the required two year period.

To submit a report via the NBIC website, or download the appropriate form to submit as an e-mail attachment, visit: http://invasions.si.edu/NBIC/bwform.html.

4. Alternative Reporting Methods

a. Equivalent Reporting Program

Owners with vessels operating exclusively within the U.S. EEZ or Canadian equivalent, and which anticipate reporting more than 10 times in a calendar month, may apply for the Equivalent Reporting Program. This program provides vessel specific reporting forms

which may be filled out online and submitted once a month for the reports covering the preceding month. Acceptance into this program is the only means for which a vessel may submit a single report for more than one voyage. For details of this program and enrollment applications, visit: http://invasions.si.edu/NBIC/bwform.html.

b. Fax Reporting

Submitting BWM reports via fax, although acceptable, can present problems for those submitting the report and those who must interpret and enter the report data into the national database. Reports submitted via fax do not provide the sender with a "proof of receipt." Faxed reports are also often incomplete and unreadable due to bad fax transmissions and/or poor handwriting. When an illegible *Ballast Water Reporting Form* is received, the report is not accepted by the NBIC and the vessel is considered out of compliance with the requirements. Since most fax machines available provide senders with a transmittal report, if the report is sent by fax, the sender should keep a copy of the transmittal report with their BWM records. Fax transmittal reports provide evidence that an attempt was made to submit a *Ballast Water Reporting Form* and will help in the Coast Guard verification process. Fax transmittal reports, however, will not prevent a vessel from undergoing an expanded BWM exam if the vessel develops a history of not reporting due to unreadable fax transmissions.

c. Postal Service/ Mail-in Reporting

As a last resort, BWM reports may be submitted via normal postal service. This method is the least desirable due to time, costs and report quality concerns. If a *Ballast Water Reporting Form* is sent by mail, the sender should consider sending the report "certified, return receipt," ensure the date and times of the report are marked, and keep the receipt card on board with the required BWM records. Return receipt cards provide proof that *Ballast Water Reporting Forms* have been submitted to NBIC and help streamline the Coast Guard BWM verification process. If a return receipt is not received after a reasonable period, the mailer may request a delivery record using a Postal Service Form 3811-A.

5. Report Format, Content and Discrepancies

Submitted reports must be complete, accurate and prepared in accordance with the instructions listed in the Appendix to 33 CFR 151, subpart D. Each report must include all the information listed in 33 CFR 151.2045 and be in the correct format. The only report formats that meet the mandatory BWM reporting requirements are: the *Ballast Water Reporting Form* (OMB form Control No. 1625-0069) found in the Appendix to 33 CFR 151, subpart D; the online versions found at the NBIC website; and the St. Lawrence Seaway "Pre-entry Information from Foreign Flagged Vessel Form" (for vessels entering the Great Lakes after operating beyond the EEZ). Customized forms, forms that have been altered, forms that have logos or other information attached, and online forms that are not in the electronic format found at the NBIC website, are not acceptable. Since the reports are required for vessel arrivals, and conditions may change while en-route to a destination, an amended form must be provided to the NBIC if the planned ballast conditions of that voyage changes.

TABLE 1:
Where to send this form [reprinted from 33 CFR Part 151, Subpart D, Appendix]

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).

Bound for	**You must submit your report as detailed below.**
The 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".
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 bound up the Hudson River north of George Washington Bridge should submit the form in accordance with the instructions in the following block.
All other U.S. 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/ballast.htm; E-mail to 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 21037-0028.

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.

Bound for	**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 one of the following means: Via the Internet at http://invasions.si.edu/ballast.htm; E-mail to NBIC@BALLASTREPORT.ORG; Fax to 301-261-4319; or Mail to U.S. Coast Guard, c/o SERC, P.O. Box 28, Edgewater, MD 21037-0028.

If any information changes, send an amended form before the vessel departs the waters of the United States.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 40 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MSO), U.S. Coast Guard, 2100 Second St. SW, Washington, DC 20593-001, or Office of Management and Budget, Paperwork Reduction Project (1625-0069), Washington, DC 20503

6. Required and Allowable Report Deviations

a. A vessel's official number shall be entered in place of an IMO number whenever a vessel does not have an IMO number.

b. For volumes reported in Section 3 and 5, gallons may be substituted for cubic meters and metric tons. The abbreviation **gal** may be used.

c. For vessels in coastwise service, the AGENT field in Section 2 may be used to reflect a charterer by preceding the entry with **CH:**, or operator by preceding the entry with **OP**:

d. Locations on the inland rivers may be depicted using abbreviations for river and mile. For example, Lower Mississippi River 234 may be entered **LMR 234**.

e. Vessels unable to measure salinity may report **1.0** for fresh water or **n/a** for salt water.

f. Integrated or articulated tug and barge units may file a single report for the units as applicable.

C. BWM RECORDKEEPING GUIDANCE

1. Onboard Recordkeeping Requirements (33 CFR 151.2045)

All vessels that are required to submit BWM reports under 33 CFR 151.2041 must also keep accurate BWM records on board for a minimum of two years. These records must be made available to the Coast Guard upon request as specified by 33 CFR 151.2050(b). The onboard BWM records must address all the information described in 33 CFR 151.2045 and have entries for each voyage where the vessel enters a COTP zone (including those between COTP zones within the Great Lakes) to anchor or moor. Each record must also be signed by the master, owner, operator, person-in-charge, or responsible officer to certify the accuracy of the record.

Retaining signed copies of properly completed (and submitted) *Ballast Water Reporting Forms* is the best way to satisfy both the reporting and recordkeeping requirements and ensure compliance. Ballast water logs or record books that contain all of the required information listed in 33 CFR 151.2045, whether they are separate documents or integrated with other record systems, may also meet the requirements, provided they are complete, accurate and consistent with the information submitted within the BWM reports.

Unmanned barges and uninspected vessels

Unmanned barges and uninspected vessels may maintain records ashore, under the control of the owner or other responsible person. These records must be maintained accurately and up to date, and shall be made available upon request as required by Coast Guard personnel in conjunction with any Coast Guard compliance activity. The Coast guard recommends that owners and operators of chartered vessels identify within the written charter agreements the party responsible for maintaining these records, the locations where the records will be maintained, and the party responsible for submitting the required BWM reports. This will expedite the Coast Guard verification process.

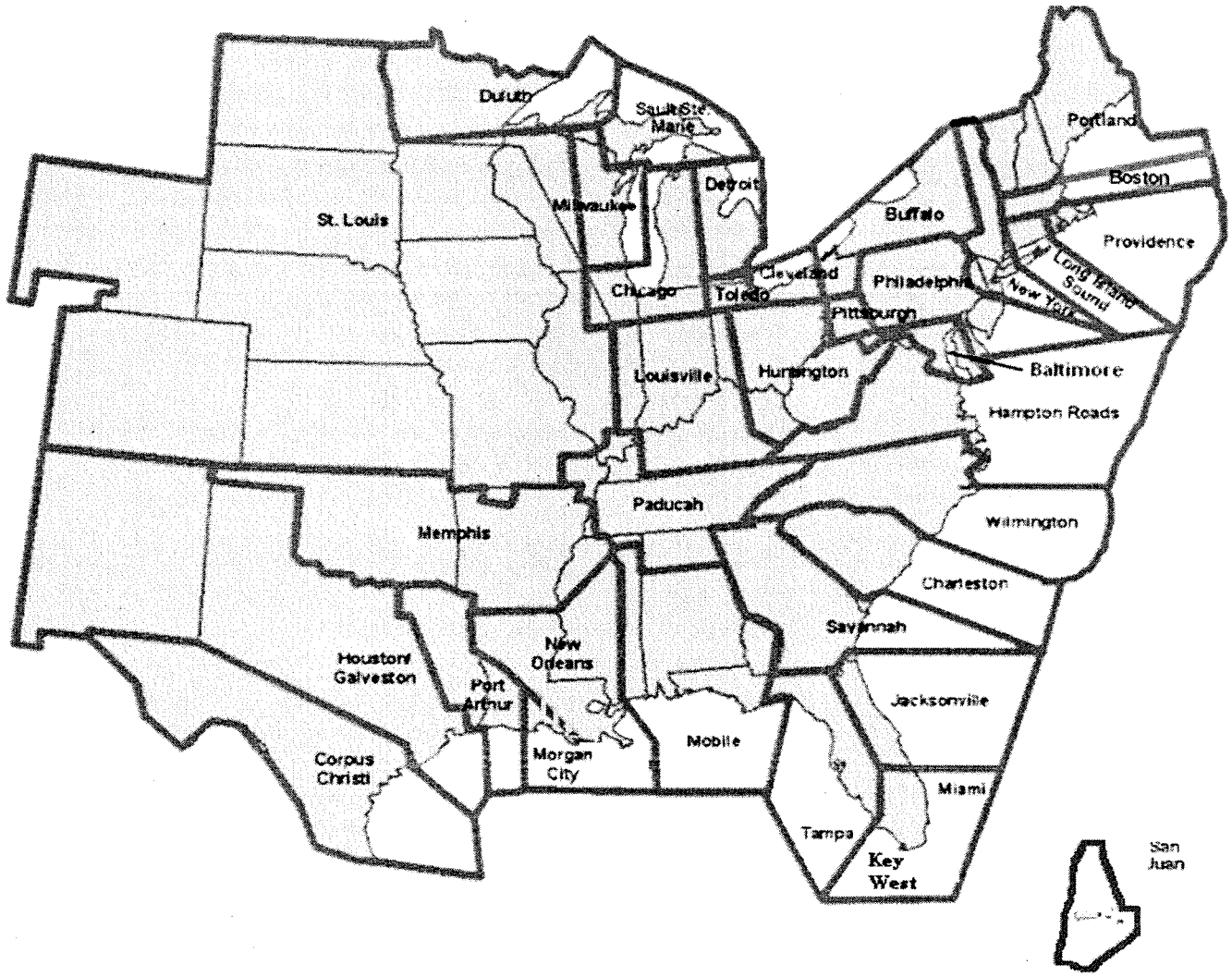
Incomplete, illegible, or erroneous reports may subject the vessel to Coast Guard enforcement action. To prevent being placed on a BWM lookout list due to incomplete or incorrect reporting, masters, owners, operators, agents, and persons-in-charge should adhere to the guidance in Table 2 in addition to the instructions listed in the Appendix to 33 CFR 151, subpart D.

TABLE 2:
How to avoid the common problems associated with submitting *Ballast Water Reporting Forms* to the NBIC.

Form Section	Description
All	No parts of the form should be cut off.
All	All information must be legible.
1, 2	Ship and voyage information must be complete and accurate.
1, 2, 3, 4	All fields in Sections 1-4 of the form must be filled out.
3, 4	Sections 3 and 4 of the form (the fields that ask for the number of tanks) must be filled out with a number, not words, volumes, or names of tanks.
5	Section 5 of the form must only be completed if the ship plans on discharging ballast in U.S. waters during the reported on voyage. If ballast water is to be discharged, then entries in Section 5 must contain both the source water and discharge water (at a minimum) plus managed water (ie. exchanged water), if applicable. There should not be a *BW Management Practices* entry without a *BW Source* entry. If the ballast water was taken on at sea, not exchanged, that information belongs in the source column, not in the *BW Management Practices* column.
5	In the *BW Source* column of Section 5, if a tank to be discharged has multiple sources, ensure that the three largest sources of ballast water taken on in the last 30 days are listed.
4	The number of tanks discharged in Section 4 of the form should match the discharge information in Section 5.
5	Only enter one tank per line in Section 5 of the form unless the tanks are port and starboard pairs with *identical* ballast water histories.
2, 5	Enter all dates in Sections 2 and 5 as DD/MM/YYYY. Do not enter date ranges (see instructions in Encl. (1)).
2, 5	Do not abbreviate the names of ports in Sections 2 or 5 of the form.
5	When filling in Section 5, the "ENDPOINT LAT. LONG." field should be filled in with a latitude and longitude not a port.

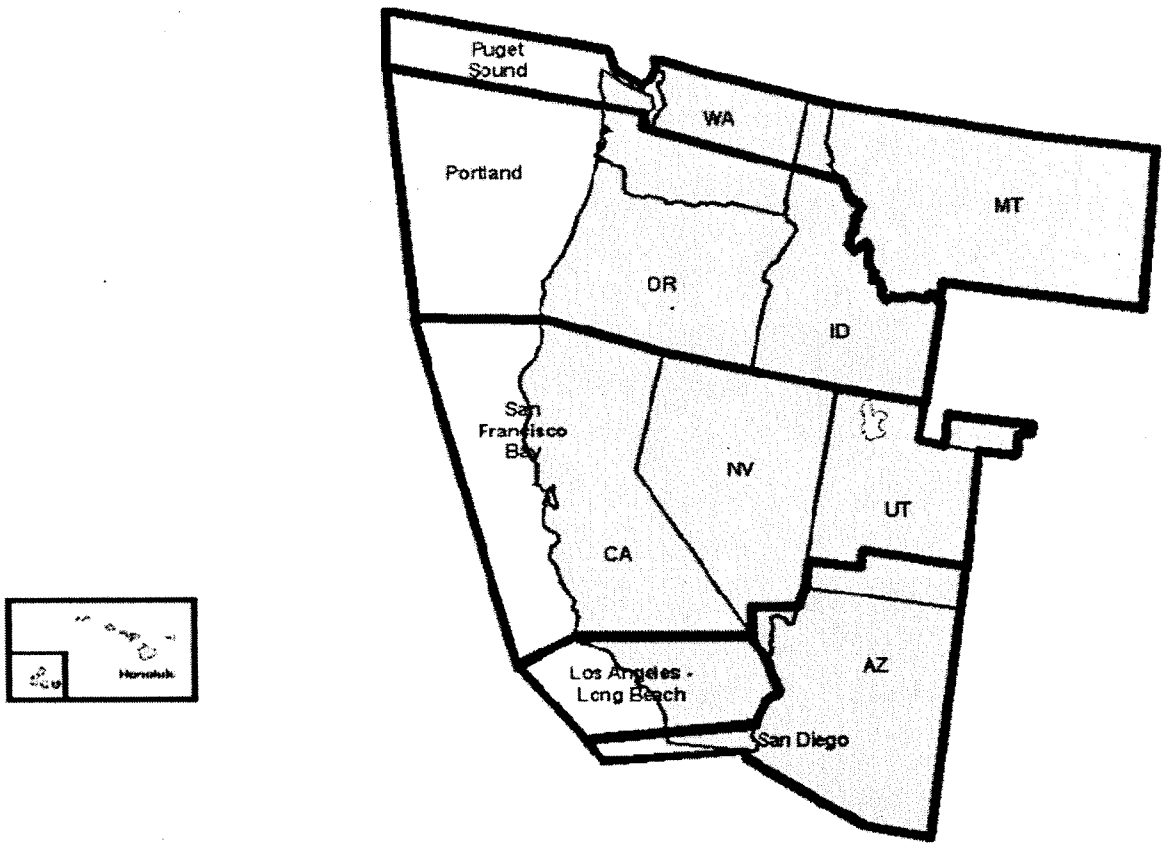
Appendix A – U.S. Coast Guard Captain of the Port (COTP) Zones and Common U.S. Ports

Figure A-1: East Coast COTP Zones



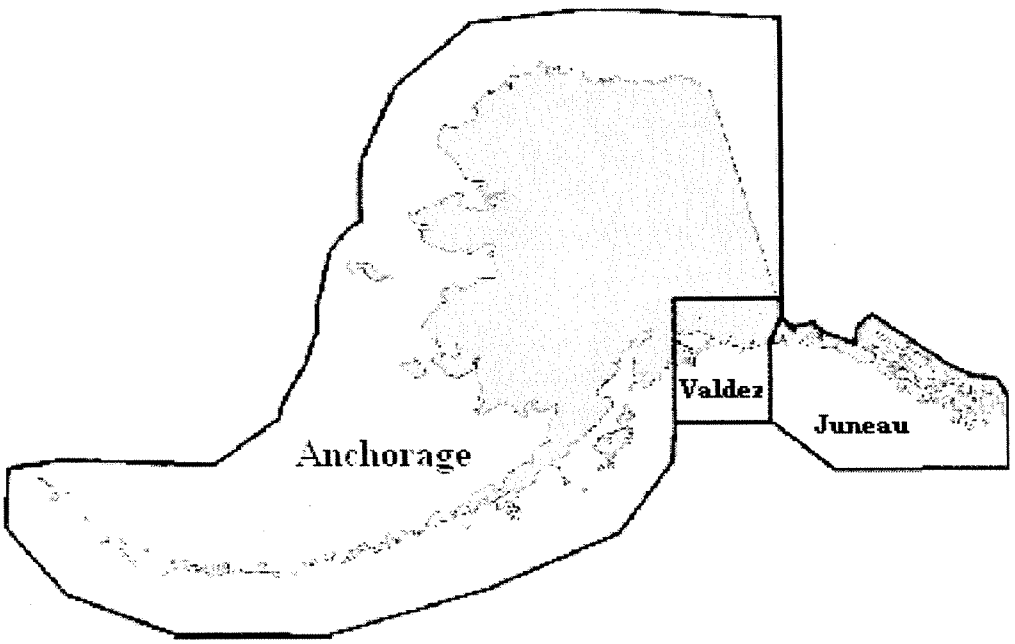
NOTE: The above diagram represents approximate boundaries of U.S. Coast Guard COTP zones. Official COTP boundary delineations may be found in 33 CFR Part 3.

Figure A-2: West Coast COTP Zones



NOTE: The above diagram represents approximate boundaries of U.S. Coast Guard COTP zones. Official COTP boundary delineations may be found in 33 CFR Part 3.

Figure A-3: COTP Zones in Alaska



NOTE: The above diagram represents approximate boundaries of U.S. Coast Guard COTP zones. Official COTP boundary delineations may be found in 33 CFR Part 3.

TABLE A-1: List of Coast Guard COTP Zones and Common U.S. Ports

COTP Zone	U.S. Port
Jacksonville	Jacksonville, FL
	Fernandina Beach, FL
	Melbourne, FL
	Port Canaveral, FL
	St. Augustine, FL
Charleston	Charleston, SC
	Georgetown, SC
	Port Royal, SC
Savannah	Savannah, GA
	Brunswick, GA
San Juan	San Juan, PR
	Arecibo, PR
	Fajardo, PR
	Guanica, PR
	Mayaguez, PR
	Ponce, PR
	Christiansted, St Croix, VI
	St. Thomas, VI
Tampa	Tampa, FL
	Cedar Key, FL
	Charlotte, FL
	Fort Myers Beach, FL
	St. Petersburg, FL
	Weedon Island, FL
Miami	Miami, FL
	Carrabelle, FL
	Fort Pierce, FL
	Palm Beach, FL
	Port Everglades, FL
Key West	Key West, FL
Corpus Christi	Corpus Christi, TX
	Aransas Pass, TX
	Brownsville, TX
	Matagorda Ship Channel,
	Port Isabel, TX
	Rockport, TX
	Victoria, TX
Port Arthur	Port Arthur, TX
	Beaumont, TX
	Orange, TX
	Sabine Pass, TX
	Lake Charles, LA

COTP Zone	U.S. Port
New Orleans & Morgan City	New Orleans, LA
	Baton Rouge, LA
	Lake Providence, LA
	Port of Madison Parish, LA
	Port of Plaquemines, LA
	Port of South Louisiana, LA
	Natchez, MS
	Vicksburg, MS
	Port Fourchon, LA
	Port of Morgan City, LA
	Port of Iberia, LA
	Port of West St. Mary, LA
	Freshwater City, LA
Houston-Galveston	Houston, TX
	Galveston, TX
	Freeport, TX
	Texas City, TX
Mobile	Mobile, AL
	Dauphin Island, AL
	Panama City, FL
	Pensacola, FL
	Port St. Joe, FL
	Biloxi, MS
	Gulfport, MS
	Pascagoula, MS
	Pass Christian, MS
Memphis	Memphis, TN
	Greenville, MS
	Rosedale, MS
	Helena, AR
	Tulsa - Port of Catoosa, OK
Pittsburgh	Pittsburgh, PA
St. Louis	St. Louis, MO & IL
	Kansas City, MO
	Minneapolis, MN
	St. Paul, MN
Huntington	Huntington, WV
Louisville	Louisville, KY
	Cincinnati, OH
	Mount Vernon, IN
Paducah	Nashville, TN
	Chattanooga, TN
	Knoxville, TN
	Guntersville, AL

COTP Zone	U.S. Port
New York	New York, NY & NJ
	Albany, NY
	Hempstead, NY
	Rondout, NY
	Tarrytown, NY
Boston	Boston, MA
	Beverly, MA
	Cohasset, MA
	Duxbury, MA
	Gloucester, MA
	Green Harbor, MA
	Lynn, MA
	Manchester, MA
	Marblehead, MA
	Newburyport, MA
	Plymouth, MA
	Rockport, MA
	Salem, MA
	Scituate, MA
Long Island Sound	New Haven, CT
	Bridgeport, CT
	Greenwich, CT
	New London, CT
	Norwalk, CT
	Stamford, CT
	Greenport, NY
	Hay, NY
	Mattituck, NY
	Northport, NY
	Port Jefferson, NY
Portland, ME	Portland, ME
	Belfast, ME
	Boothbay Harbor, ME
	Bucksport, ME
	Carvers Harbor, ME
	Corea Harbor, ME
	Eastport, ME
	Matinicus, ME
	Northeast Harbor, ME
	Rockland, ME
	Rockport, ME
	Searsport, ME
	South Bristol, ME
	Southwest Harbor, ME
	Stonington, ME
	Portsmouth, NH
	Hampton, NH

COTP Zone	U.S. Port
Providence	Providence, RI
	Newport, RI
	Bourne, MA
	Chatham, MA
	Cuttyhunk Harbor, MA
	Edgartown, MA
	Fall River, MA
	Falmouth, MA
	Mattapoisett, MA
	Nantucket, MA
	New Bedford, MA
	Provincetown, MA
	Vineyard Haven, MA
	Wareham, MA
	Wellfleet, MA
Hampton Roads	Hampton Roads, VA
	Alexandria, VA
	Cape Charles, VA
	Chincoteague, VA
	Hopewell, VA
	Horn Harbor, VA
	Richmond, VA
	Winter Harbor, VA
	Ocean City, MD
Philadelphia	Philadelphia, PA
	Chester, PA
	Marcus Hook, PA
	Camden, NJ
	Gloucester, NJ
	Paulsboro, NJ
	Penn Manor, PA
	Trenton, NJ
	New Castle, DE
	Wilmington, DE
Baltimore	Baltimore, MD
	Annapolis, MD
	Cambridge, MD
	Crisfield, MD
	St. Michaels Harbor, MD
	Tilghman Island, MD
	Washington, DC
Wilmington	Wilmington, NC
	Avon, NC
	Beaufort, NC
	Belhaven, NC
	Edenton, NC
	Morehead City, NC
	Wanchese, NC

COTP Zone	U.S. Port
Chicago	Chicago, IL
	Waukegan, IL
	Buffington, IN
	Burns Waterway Harbor, IN
	Gary, IN
	Indiana Harbor, IN
	Frankfort, MI
	Grand Haven, MI
	Holland, MI
	Ludington, MI
	Manistee, MI
	Muskegon, MI
	Pentwater, MI
	St. Joseph, MI
Detroit	Detroit, MI
	Alabaster, MI
	Harbor Beach, MI
	Marine City, MI
	Marysville, MI
	Port Huron, MI
	St. Clair, MI
	Washington, MI
Duluth	Duluth-Superior, MN & WI
	Silver Bay, MN
	Taconite, MN
	Two Harbors, MN
	Ontonagan, MI
	Ashland, WI
	Bayfield, WI
	La Pointe, WI
	Washburn, WI
Buffalo	Buffalo, NY
	Alexandria Bay, NY
	Dunkirk, NY
	Ogdensburg, NY
	Oswego, NY
	Rochester, NY
	Sackets Harbor, NY
	Erie, PA
Cleveland	Cleveland, OH
	Ashtabula, OH
	Conneaut, OH
	Fairport Harbor, OH
	Lorain, OH
Toledo	Toledo, OH
	Huron, OH
	Kelleys Island, OH
	Marblehead, OH
	Put-In-Bay, OH
	Sandusky, OH
	Monroe, MI
Sault Ste. Marie	Sault Ste. Marie, MI
	Alpena, MI
	Calcite, MI
	Cedarville, MI
	Charlevoix, MI
	Cheboygan, MI
	Drummond Island, MI
	Escanaba, MI
	Gladstone, MI
	Mackinac, MI
	Mackinaw City, MI
	Manistique, MI
	Marquette, MI
	Munising, MI
	Port Dolomite, MI
	Port Gypsum, MI
	Port Inland, MI
	Presque Isle, MI
	St. Ignace, MI
	St. James, MI
	Stoneport, MI
	Traverse City, MI
Milwaukee	Milwaukee, WI
	Green Bay, WI
	Manitowoc, WI
	Northport, WI
	Port Washington, WI
	Racine, WI
	Sheboygan, WI
	Sturgeon Bay, WI
	Menominee, MI
Los Angeles/ Long Beach	Los Angeles, CA
	Long Beach, CA
	Ellwood, CA
	Newport Bay Harbor, CA
	Port Hueneme, CA
	Redondo Beach, CA
	Santa Barbara, CA
	Santa Monica, CA
	Ventura, CA

COTP Zone	U.S. Port
San Francisco Bay	San Francisco, CA
	Berkeley, CA
	Bodega Bay, CA
	Crescent City, CA
	Humboldt, CA
	Monterey Harbor, CA
	Morro Bay, CA
	Moss Landing, CA
	Oakland, CA
	Redwood City, CA
	Richmond, CA
	Sacramento, CA
	Santa Cruz, CA
	Stockton, CA
San Diego	San Diego, CA
	Mission Bay, CA
Puget Sound	Seattle, WA
	Tacoma, WA
	Anacortes, WA
	Bellingham, WA
	Blaine, WA
	Everett, WA
	Grays Harbor, WA
	Neah Bay, WA
	Olympia, WA
	Port Angeles, WA
	Port Gamble, WA
	Port Townsend, WA
	Willapa, WA
Portland, OR	Portland, OR
	Astoria, OR
	Coos Bay, OR
	Pacific City, OR
	Port Orford, OR
	Kalama, WA
	Longview, WA
	Vancouver, WA
Honolulu	Honolulu, HI
	Barbers Point, Oahu, HI
	Hilo, HI
	Kahului, Maui, HI
	Kaumalapau, Lanai, HI
	Kaunakakai, Molokai, HI
	Kawaihae Harbor, HI
	Lahaina, Maui, HI
	Nawiliwili, Kauai, HI
	Pearl Harbor, Oahu, HI
American Samoa	Pago Pago
Guam	Saipan
	Tinian
	Rota
	Apra Harbor
Anchorage	Anchorage, AK
	Barrow, AK
	Beluga, AK
	Bethel, AK
	Dillingham, AK
	False Pass, AK
	Homer, AK
	Hooper Bay, AK
	Humboldt, AK
	Kaktovik, AK
	King Cove, AK
	Kivilina, AK
	Kodiak, AK
	Nikishka (Nikiski), AK
	Ninilchik, AK
	Nome, AK
	Old Harbor, AK
	Point Hope, AK
	Port Graham, AK
	Port Heiden, AK
	Port Lions, AK
	Port Moller, AK
	Seldovia, AK
	Seward, AK
	Tin City, AK
	Wales, AK
Valdez	Valdez, AK
	Cordova, AK
	Whittier, AK
Juneau	Juneau, AK
	Craig, AK
	Haines, AK
	Hoonah, AK
	Hydaburgm (Hydaburg), AK
	Kake, AK
	Ketchikan, AK
	Klawock, AK
	Metlakatla, AK
	Pelican, AK
	Petersburg, AK
	Sitka, AK
	Skagway, AK
	Wrangell, AK
	Yakutat, AK

Appendix B – Sample Ballast Water Reporting Forms

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OMB form Control No. 1625-0069

SAMPLE BALLAST WATER REPORTING FORM

IS THIS AN AMENDED BALLAST REPORTING FORM? YES ☐ NO ☐

1. VESSEL INFORMATION	2. VOYAGE INFORMATION		3. BALLAST WATER USAGE AND CAPACITY
Vessel Name: FULLNAME	Arrival Port: Baltimore		*Specify Units Below (m^3, MT, LT, ST)*
IMO Number: 1234567	Arrival Date: 10/04/99		Total Ballast Water on Board: Volume: 15700 Units: m3 No. of Tanks in Ballast: 19
Owner: United Fullname Vessels	Agent: Arrival Agents, Inc.		
Type: Ro-Ro	Last Port: Liverpool	Country of Last Port: United Kingdom	
GT: 85923			Total Ballast Water Capacity: Volume: 22430 Units: m3 Total No. of Tanks on Ship: 24
Call Sign: RX7T	Next Port: Ghent	Country of Next Port: Belgium	
Flag: United States of America			

4. BALLAST WATER MANAGEMENT Total No. Ballast Water Tanks to be discharged: 1

Of tanks to be discharged, how many: Underwent Exchange: 1 Underwent Alternative Management: 0

Please specify alternative method(s) used, if any: _____

If no ballast treatment conducted, state reason why not: _____

Ballast management plan on board? YES ☒ NO ☐ Management plan implemented? YES ☒ NO ☐

IMO ballast water guidelines on board [res. A.868(20)]? YES ☒ NO ☐

5. BALLAST WATER HISTORY: Record all tanks to be deballasted in port state of arrival; IF NONE, GO TO #6 *(Use additional sheets as needed)*

Tanks/ Holds	BW SOURCES				BW MANAGEMENT PRACTICES						BW DISCHARGES			
List multiple sources/tanks separately	DATE DD/MM/YY	PORT or LAT. LONG.	VOLUME (units)	TEMP (units)	DATE DD/MM/YY	ENDPOINT LAT. LONG.	VOLUME (units)	% Exch	METHOD (ER/FT/ ALT)	SEA HT. (m)	DATE DD/MM/YY	PORT or LAT. LONG.	VOL (units)	SALINITY (units)
WT 1	25/03/99	Liverpool, United Kingdom	1000 m3	15 C	05/04/99	45 20 N 30 15 W	7865	300	ER	4	10/04/99	Baltimore	2625 m3	35 ppt
WT 1	20/03/99	Brest, France	525 m3	15 C	AS	ABOVE	****	**	***	**	AS	ABOVE	****	****
WT 1	15/03/99	Cartegena, Spain	700 m3	16 C	AS	ABOVE	****	**	***	**	AS	ABOVE	****	****
WT 1	24/03/99	Multiple	400 m3	16 C	AS	ABOVE	****	**	***	**	AS	ABOVE	****	****

Ballast Water Tank Codes: Forepeak = FP, Aftpeak = AP, Double Bottom = DB, Wing = WT, Topside = TS, Cargo Hold = CH, Other = O

6. RESPONSIBLE OFFICER'S NAME AND TITLE, PRINTED AND SIGNATURE: John Doe, Captain

OMB form Control No. 1625-0069

SAMPLE BALLAST WATER REPORTING FORM

IS THIS AN AMENDED BALLAST REPORTING FORM? YES ☐ NO ☐

1. VESSEL INFORMATION	2. VOYAGE INFORMATION		3. BALLAST WATER USAGE AND CAPACITY
Vessel Name: BLUE CRAB	Arrival Port: Long Beach		*Specify Units Below (m^3, MT, LT, ST)*
IMO Number: 1231234	Arrival Date: 16/03/99		Total Ballast Water on Board:
Owner: International Blue Crab Vessels	Agent: Blue Host		Volume / Units / No. of Tanks in Ballast: 8000 / m3 / 12
Type: Tanker	Last Port: Buenaventura	Country of Last Port: Mexico	Total Ballast Water Capacity:
GT: 99523			Volume / Units / Total No. of Tanks on Ship: 25000 / m3 / 31
Call Sign: JP5L	Next Port: Valdez	Country of Next Port: United States of America	
Flag: Malta			

4. BALLAST WATER MANAGEMENT Total No. Ballast Water Tanks to be discharged: 4

Of tanks to be discharged, how many: Underwent Exchange: 3 Underwent Alternative Management: 0

Please specify alternative method(s) used, if any: _____

If no ballast treatment conducted, state reason why not: Rough Seas

Ballast management plan on board? YES ☒ NO ☐ Management plan implemented? YES ☒ NO ☐

IMO ballast water guidelines on board [res. A.868(20)]? YES ☒ NO ☐

5. BALLAST WATER HISTORY: Record all tanks to be deballasted in port state of arrival; IF NONE, GO TO #6 ***(Use additional sheets as needed)***

Tanks/ Holds	BW SOURCES				BW MANAGEMENT PRACTICES						BW DISCHARGES			
List multiple sources/tanks separately	DATE DD/MM/YY	PORT or LAT. LONG.	VOLUME (units)	TEMP (units)	DATE DD/MM/YY	ENDPOINT LAT. LONG.	VOLUME (units)	% Exch	METHOD (ER/FT/ ALT)	SEA HT. (m)	DATE DD/MM/YY	PORT or LAT. LONG.	VOL (units)	SALINITY (units)
WT 1	01/03/99	Buenaventura, Mexico	1500 m3	20 C	05/03/99	10 10 N 110 0 W	3000 m3	200	FT	2	10/03/99	Long Beach	1500 m3	36 ppt
WT 2	01/03/99	Buenaventura, Mexico	1500 m3	20 C	05/03/99	10 10 N 110 0 W	3000 m3	200	ER	2	10/03/99	Long Beach	1500 m3	36 ppt
FP	01/03/99	Buenaventura, Mexico	900 m3	20 C	05/03/99	10 10 N 110 0 W	1800 m3	200	ER	2	10/03/99	Long Beach	900 m3	36 ppt
AP	01/03/99	31 05 N 122 20 W	500 m3	20 C							10/03/99	Long Beach	500 m3	14 ppt

Ballast Water Tank Codes: Forepeak = FP, Aftpeak = AP, Double Bottom = DB, Wing = WT, Topside = TS, Cargo Hold = CH, Other = O

6. RESPONSIBLE OFFICER'S NAME AND TITLE, PRINTED AND SIGNATURE: Bill Smith, Chief Mate

ENCLOSURE 2:

MANDATORY BALLAST WATER MANAGEMENT (BWM) GUIDANCE

Enclosure 2 - MANDATORY BALLAST WATER MANAGEMNT (BWM) GUIDANCE

Introduction

This enclosure describes responsibilities and procedures for foreign and domestic vessel owners, operators, and persons-in-charge for complying with amendments made to 33 CFR 151, subpart D, by the July 28, 2004 final rule titled, "Mandatory Ballast Water Management Program for U.S. Waters." This final rule establishes mandatory practices for all vessels equipped with ballast water tanks that operate in U.S. waters, and mandates additional practices for vessels carrying ballast water into U.S. waters that was taken on within 200 NM of any coast.

With these new requirements, all vessels equipped with ballast water tanks must implement BWM strategies to prevent, to the maximum extent practicable, the unintentional introduction and spread of ANS in U.S. waters. Currently, retaining ballast water on board, minimizing ballast water uptake or discharge in certain locations and times, and exchanging ballast water from coastal sources with mid-ocean seawater, are the primary means of BWM. Other alternative BWM methods, however, are being developed that may entail various mechanical, physical, chemical, or biological processes that can remove, render harmless, or prevent the uptake or discharge of ANS within ballast water. At some point in the future, one or more of these alternatives may be approved for onboard BWM.

A. Applicability

All vessels equipped with ballast water tanks operating in U.S. waters must comply with the mandatory BWM practices of 33 CFR 151.2035 (a). This includes vessels that operate exclusively within a single COTP zone. In addition, vessels which carry ballast water that was taken on within 200 nautical miles (NM) of any coast, and operate beyond the U.S. EEZ, must comply with the additional mandatory BWM practices of 33 CFR 151.2035(b) unless specifically exempted from the regulations or unable to implement the practices due to reasonable safety or voyage constraints as described in this enclosure.

Great Lakes and Hudson River Applicability

Vessels entering the Great Lakes and Hudson River from outside the U.S. EEZ must comply with the new requirements of 33 CFR 151, subpart D, in addition to the existing requirements of 33 CFR 151, subpart C.

B. Requirements for all Vessels Equipped with Ballast Water Tanks

The following mandatory practices established by the U.S. Coast Guard under 33 CFR 151.2035 (a) must be followed by all masters, owners, operators or persons-in-charge of any vessel equipped with ballast water tanks that operates in U.S. waters.

1. BWM Plan

Under 33 CFR 151.2035(a)(7), each vessel equipped with ballast water tanks must develop, and maintain on board, the documentation for a BWM plan. The intent of the plan is to detail safe and effective shipboard procedures for BWM, and the central elements of the plan should be the processes, equipment, and vessel safety measures used for implementing the vessel's BWM strategy and following the required BWM practices.

At a minimum, each BWM plan must: be specific to the vessel; show that there is a BWM strategy for the vessel; and allow any master, or other ship's officer serving on that vessel to understand and implement the BWM strategy for the vessel.

In addition, each BWM plan should include:

- Detailed safety procedures;
- Actions for implementing the mandatory BWM requirements and practices;
- Detailed fouling maintenance and sediment removal procedures;
- Procedures for coordinating the shipboard BWM strategy with Coast Guard authorities;
- Identification of the designated officer[s] in charge of ensuring that the plan is properly implemented;
- Detailed reporting requirements and procedures for ports and places in the U.S. where the vessel may visit; and
- A translation of the plan into English, French or Spanish if the Ship's working language is another language.

Each plan should be assessed in terms of the vessel's structural strength and stability. Vessel owners and operators should seek assistance from their class societies, marine surveyors, or other appropriate marine services during the development of BWM plans. Any plan that meets IMO guidelines or the recommended guidance set forth within Appendix A to Enclosure (4) of this NVIC, will meet the regulatory requirements laid out in 33 CFR 151.2035(a)(7).

Unmanned Barges

The BWM plans of unmanned barges may be kept on board the towing vessel, or incorporated into the towing vessel's own BWM plan.

2. BWM Training

The masters, operators, persons-in-charge and appropriate crew of all vessels equipped with ballast water tanks must be trained on the application of the vessel's BWM and sediment management procedures.

3. Minimizing and Avoiding Ballast Uptake and Discharge

Subparagraphs (a)(1), (a)(2), and (a)(4) of 33 CFR 151.2035 include several conditions where ballast water discharge or uptake should be minimized or avoided. Vessel owners and operators are encouraged to work with local port authorities to identify the areas where these conditions may be in effect and include strategies within their BWM plans to effectively address them.

4. Vessel Maintenance Requirements

Subparagraphs (a)(3), (a)(5) and (a)(6) of 33 CFR 151.2035 list required maintenance procedures that will help prevent the spread of ANS from residual water and sediment within ballast tanks; and from fouling organisms that may be attached to vessel hulls, piping, and/or anchor gear. The

schedules and procedures for meeting these maintenance requirements should be included within the vessel's BWM plan.

C. Additional Requirements for Vessels Operating Beyond the U.S. EEZ

As mandated under 33 CFR 151.2035(b) by the July 28, 2004 final rule, each vessel transiting into U.S. waters after operating beyond the U.S. EEZ, which carries ballast water that was taken on within 200 nautical miles (NM) of any coast, must implement at least one of the following additional BWM practices:

- Perform complete mid-ocean ballast water exchange (BWE) on all tanks containing this ballast water before the ballast from these tanks are discharged into U.S. waters.
- Retain this ballast water on board the vessel while in U.S. waters; or
- Prior to the vessel entering U.S. waters, use an alternative environmentally sound method of BWM, that has been approved by the U.S. Coast Guard, to treat this ballast water.

1. BWM Implementation

Environmentally sound alternative BWM methods are still being developed and will likely be of limited availability in the near future. Until such alternative methods are approved by the U.S. Coast Guard, only BWE and ballast water retention are available options for vessels transiting in U.S. waters. Therefore, the U.S. Coast Guard expects each vessel carrying ballast water taken on within 200 NM of any coast to either retain the ballast water on board while in U.S. waters, or conduct mid-ocean ballast water exchange (BWE) prior to entering the U.S. EEZ. The decision for which of these two methods to use will depend largely on the vessel's route, expected operations, and ability to transfer internally. Some vessels, however, are unlikely to retain their ballast after arriving in U.S. waters since this would prevent them from conducting cargo operations or transiting a waterway. In those cases where it is necessary to discharge ballast water, the vessel's crew must plan accordingly and ensure complete mid-ocean BWE is conducted on all tanks containing water that was taken on within 200 NM of any coast, prior to entering the waters of the U.S.

2. Ballast Water Exchange (BWE)

Mid-ocean BWE is currently the method of preventing introductions of ANS into U.S. waters when ballast water discharge is necessary for conducting cargo operations, maintaining stability or reducing draft. The concept behind BWE is that organisms contained within the ballast water taken from a coastal port will be discharged during the exchange. It is also further thought that mid-ocean organisms are unlikely to invade coastal habitats because coastal environmental conditions are significantly different than those of the mid-ocean.

a. Methods of BWE

Currently, there are two methods for conducting mid-ocean exchange:

i. Empty/refill exchange where ballast water in a tank (or pair of tanks) is pumped down as far as possible, and then mid-ocean seawater is pumped back up to the original level; and

ii. Flow-through exchange where mid-ocean seawater is pumped into a full tank while the existing coastal or fresh water is pumped or pushed out through another opening. As defined by the Coast Guard, a volume of water equal to three times the ballast tank capacity must be pumped through the tank for a flow-through exchange to be complete.

b. BWE Requirements

The July 28, 2004 final rule revises the criteria for a mid-ocean exchange by removing the constraints of exchanging ballast water in waters at a depth of 2,000 meters. This was done to allow more vessels to conduct exchange and to simplify enforcement. All mid-ocean exchanges, however, must be conducted at least 200 NM from any coast to meet the requirements of this regulation.

3. Safety Considerations

Due to variations in ship designs, vessel owners and operators, with input from the classification society or maintenance surveyor, should determine which method[s] of BWE is appropriate for the vessel under different sea conditions and outline detailed safety precautions for conducting the method[s] in the vessel's BWM plan. Failure to adequately prepare for BWE operations, or conducting BWE operations in unsafe conditions, may result in over-pressurizing a tank or hold and creating unstable conditions that may affect the integrity of the vessel's structure or exceed the allowable forces on the vessel's hull.

4. Exempted Vessels

The following vessels are exempt from the additional requirements of 33 CFR 151.2035(b):

a. Crude Oil Tankers Engaged in Coastwise Trade

This exemption applies only to vessels carrying unrefined crude oil from one U.S. place to another. Included in this exemption are vessels that carry crude oil from the Alaskan pipeline to refineries in other U.S. states, including Hawaii. Also included are vessels that take on crude oil from lightering operations conducted within U.S. waters which then transport the crude to another U.S. place.

b. Department of Defense (DOD), Coast Guard, and Armed Service Vessels

This exemption includes any vessel owned by the U.S. DOD and any equivalent vessel operated by the U.S. Coast Guard or other Armed Services as defined within 33 USC 1322 (a) and (n). This exemption does not include time or voyage chartered vessels, or non-DOD vessels defined solely as "public vessels" under 33 USC 1322 (a).

c. Vessels that operate exclusively within one COTP zone

Vessels that operate exclusively within a single COTP zone, and vessels that do not operate beyond the U.S. EEZ, are not required to implement the additional mandatory practices of 33 CFR 151.2035(b).

5. Safety Exemptions

BWM practices shall not jeopardize the safety of a vessel, its crew, or its passengers. Therefore, a ship's master has wide discretion in determining whether or not a mid-ocean exchange is possible given the operational conditions facing the vessel. Vessels are not prohibited from discharging unexchanged ballast water in areas other than the Great Lakes and the Hudson River, if the master decides that the practice of BWE is a threat to the safety of the vessel, its crew, or its passengers because of adverse weather, vessel design limitations, equipment failure, security, or other extraordinary conditions. Such vessels, however, are restricted to discharging only the minimal amount of unexchanged ballast water that is operationally necessary to safely conduct cargo operations and must make the BWM records available to the Coast Guard upon request.

a. Safely conducting cargo operations

For the purpose of the BWM requirements, ballasting to safely conduct cargo operations includes ballast operations conducted for the purpose of loading and unloading of cargo or stores, embarking or disembarking passengers, bunkering, and adjusting draft, trim and stability in order to safely navigate a waterway.

b. Great Lakes and Hudson River

Vessels entering the Great Lakes or Hudson river after operating beyond the EEZ are not permitted to discharge unexchanged ballast water under 33 CFR 151.1514. Vessels entering the Great Lakes or Hudson river after operating beyond the EEZ, that are unable to conduct BWE for safety or other extraordinary conditions, should plan ballast and cargo operations accordingly.

6. Voyage Limitations

In areas other that the Great Lakes and the Hudson River, masters are not required to divert or delay a voyage in order to conduct mid-ocean BWE. Whenever a vessel enters U.S. waters after operating beyond the EEZ, but cannot conduct mid-ocean BWE because the voyage to the U.S. was such that the vessel did not transit outside 200 NM of any coast for enough time to conduct exchange, the vessel must retain its unexchanged ballast water while operating in U.S. waters and only discharge the minimal amount of unexchanged ballast water that is operationally necessary to safely conduct cargo operations. Such situations may be likely for vessels that enter the U.S. EEZ from a Caribbean, Canadian, or South American port where a direct transit to the U.S. may not take the vessel more than 200 NM from shore for sufficient time to conduct BWE before reaching their U.S. destination.

7. Vessels in Innocent Passage

Foreign vessels merely transiting the territorial seas of the U.S. but not entering or departing a U.S. port, not navigating the internal waters of the U.S., or not anchoring or mooring at any place in U.S. waters, are not required to comply with the mandatory BWM requirements of 33 CFR 151 subpart D. The masters of these vessels, however, are encouraged to voluntarily adhere to the list of BWM practices outlined by the U.S. Coast Guard and avoid discharging ballast water when transiting through U.S. waters.

8. Shipboard Technology Evaluation Program (STEP) Vessels

Vessels accepted into the Coast Guard Shipboard Technology Evaluation Program in accordance with NVIC 01-04, *Shipboard Technology Evaluation Program (STEP), Experimental Ballast Water Treatment Systems* (COMDTPUB P16700.4), may be granted an equivalency to the BWM requirements of 33 CFR 151.2035(b). These vessels must follow the guidance of NVIC 01-04, adhere to all the other requirements in 33 CFR 151, subpart D, and comply with the conditions imposed upon them by the Coast Guard's Environmental Standards Division (G-MSO-4) as long as they are participating in STEP. Whenever a treatment system installed under STEP is not in use, BWM must be conducted in accordance with 33 CFR 151.2035(b).

9. Documentation of BWM Practices

Whenever a vessel expecting to conduct BWE fails to do so, entries supporting the reasons why the vessel could not comply with the regulatory requirements should be made in the BWM records. Regardless of whether a vessel retains ballast water on board or discharges ballast in U.S. waters, the vessel's BWM records must always be accurately maintained. These records must also be made available to the local Captain of the Port (COTP) upon request. As described in Enclosure (1) of this NVIC, all BWM records must always reflect actual operations, and be amended as ballasting operations change.

BWM records, entries into a vessel's deck log, the vessel's track line, weather information, or other documentation regarding on board operations or developed by a vessel's class society, marine surveyor or other marine service may be evaluated by the Coast Guard when determining a vessel's compliance with the BWM requirements.

D. Ballast Water Sampling

The Coast Guard may conduct ballast water sampling on any vessel equipped with ballast water tanks that operates in U.S. waters. Sampling may occur if a vessel has a history of possible noncompliance, if a report of violation is made, if reasonable evidence suggests noncompliance with the BWM requirements, or if there are significant discrepancies between the vessel's BWM records, planned operations, and/or supporting vessel documentation (logs, charts, etc).

Appendix A – **Suggested Content for**

Vessel-Specific Ballast Water Management (BWM) Plans

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Suggested Content for Vessel-Specific BWM Plans

A. Detail Safety Procedures

Each plan should contain a list of all tanks and pumps used for ballast water along with their capacities, and include diagrams showing the locations of all ballast tank openings.

1. For retaining ballast water on board, outline safety precautions and procedures for conducting internal ballast water transfers when necessary due to cargo or draft operations.
2. For conducting mid-ocean ballast water exchange (BWE):
   a. Provide safe at-sea pumping procedures that take into account the additional stresses that may be involved with conducting BWE, and prevent the over- or under-pressurizing of ballast tanks or pumping equipment.
   b. Provide for the routine examination of sounding pipes, vent pipes and non-return devices that may play a role in BWE.
   c. Describe the methods and precautions for maintaining stability and hull strength during BWE to within limits specified in the approved loading manual and trim and stability booklet, relevant to the ship's operating and loading conditions as applicable.
   d. Detail the circumstances and conditions in which BWE should not be undertaken due to adverse weather, design limitations, equipment failures or other extraordinary circumstances where human life or safety of the ship could be threatened.
   e. Include contingency procedures for situations which may affect BWE at sea, including deteriorating weather conditions, pump failure, and loss of power that may affect torsional forces, minimum/maximum forward and aft drafts, or wave-induced hull vibration.
   f. List the different times required to undertake different BWE operations. Provide charts and/or tables that show the pumping rates, volumes and times required to exchange different volumes of ballast water in each tank.
   g. Describe procedures for documenting ballasting and/or de-ballasting operations and routinely recording soundings of ballast tanks.
3. In addition, if the flow-through method of BWE is used:
   a. Identify the openings used for release of water from the tank, together with overboard discharge arrangements.
   b. List cautionary procedures that take into account the use of air pipes that are not designed for continuous ballast water flow, and any watertight and weather-tight closures (e.g. manholes) which should be re-secured during flow-through BWE.
   c. Identify cautionary procedures related to flooding of deck areas and icing during cold weather conditions.

B. Actions for Implementing BWM Requirements and Practices

1. Identify the locations of the following areas on the vessel's route[s] where ballast operations (discharge or uptake) should be avoided;
   a. marine sanctuaries,
   b. preserves,
   c. parks, or
   d. coral reefs

2. Identify the following areas on the vessel's route[s] where ballast uptake should be avoided:
   a. areas known to contain harmful organisms and pathogens, such as toxic algal blooms;
   b. areas in proximity of sewage outfalls;
   c. locations where dredging operations are taking place;
   d. where tidal flushing is poor or when a tidal stream is known to be more turbid;
   e. shallow waters where propellers may stir up the sediment;
   f. areas that are commonly known to have convergence zones, pod of whales, and boundaries of major currents.
3. Describe how the vessel will avoid/minimize ballast uptake in shallow waters during hours of darkness, when organisms may rise up in the water column.
4. List the procedures for minimizing ballast water discharge when BWE cannot be carried out. These procedures, at a minimum, should describe the minimum amount of ballast water necessary for routine cargo and fueling operations.

C. Detailed Fouling Maintenance and Sediment Removal Procedures

1. List procedures for rinsing anchors and anchor chains during retrieval, to remove organisms and sediments at their place of origin.
2. List the maintenance requirements and schedules for removing fouling organisms from the hull, piping, and tanks; and describe the procedures for disposing the removed substances in accordance with local, State and Federal regulations.
3. List the maintenance requirements and schedule for routinely cleaning ballast tanks to remove sediments.
4. Include arrangements for sediment removal and disposal.
5. Describe the procedures and requirements for disposing the removed sediment in accordance with local, state and federal regulations.

D. Procedures for Coordinating Shipboard BWM with Port State and Flag State Authorities

1. List and describe how the vessel will comply with the federal BWM requirements.
2. Identify the locations of suitable access points for sampling ballast or sediment to allow crewmembers to provide maximum assistance when authorities require samples.

E. Designated Officer[s] in Charge of Ensuring that the Plan is Properly Implemented

1. Identify the key shipboard personnel responsible for conducting BWE.
2. List the schedule and procedures for training all applicable vessel personnel in ballast water and sediment management procedures.

E. Detailed Reporting Requirements and Procedures for Ports and Places the Vessel may Visit

1. List the requirements and procedures for meeting the reporting requirements of each U.S. port of arrival the vessel will visit.
2. List the procedures for maintaining accurate on board BWM records for a minimum of two years.

F. A Translation of the Plan into English, French or Spanish if the Ship's Working Language is Another Language.

ENCLOSURE 3:

VERIFYING COMPLIANCE WITH THE

MANDATORY BALLAST WATER MANAGEMENT (BWM) PRACTICES

Enclosure 3 - VERIFYING COMPLIANCE WITH THE MANDATORY BALLAST WATER MANAGEMENT (BWM) PRACTICES

Introduction

This enclosure provides guidance to Coast Guard COTPs and OCMIs to effectively monitor compliance with the Mandatory BWM Program of 33 CFR 151, subpart D.

A. Coast Guard Implementation

Coast Guard Marine Inspectors (MIs), Boarding Officers (BOs) and Port State Control Officers (PSCOs) shall incorporate BWM examinations into regularly scheduled major marine safety boardings and inspections to ensure compliance with the mandatory BWM requirements of 33 CFR 151, subpart D. MIs, BOs and PSCOs shall examine the onboard BWM records, make appropriate inquiries to assess adherence with the BWM requirements, and pursue appropriate enforcement actions, in accordance with the tiered approach outlined in Enclosure (4) of this NVIC, when noncompliance is determined.

The level of scrutiny each vessel receives during a BWM examination should be based on: the vessel's compliance with the BWM recordkeeping requirements, whether or not the vessel has operated outside the U.S. EEZ and is discharging ballast water in U.S. waters, the vessel's overall current and past compliance with the BWM requirements, and the results of other inspection items. Whenever necessary, MIs, BOs and PSCOs may sample ballast water to help determine compliance with the additional BWM practices of 33 CFR 151.2035(b). Such sampling should be conducted in accordance with the procedures outlined in this enclosure and the checklist found in Enclosure (5) of this NVIC.

In addition, Coast Guard Headquarters may provide field units with BWM Lookout Lists that identify vessels with a history of either not reporting or submitting inaccurate or incomplete BWM reports to the NBIC. If such a list is issued, an expanded examination and appropriate enforcement action should be taken against each vessel identified on the list, unless the master provides reasonable evidence that disputes the reasons for being listed, or unless an Enforcement Activity has already been initiated in the Marine Information for Safety and Law Enforcement (MISLE) database by another port for the same lookout listing.

1. Pre-examination Preparation

Prior to conducting a BWM examination, Coast Guard MIs, BOs and PSCOs shall be familiar with:

- 33 CFR 151, subparts C and D;
- This guidance;
- Any current BWM lookout lists issued by Coast Guard Headquarters; and
- The vessel's history as shown in the *Vessel Critical Profile.*

2. Education and Accountability Tracking

Since the June 14, 2004 and July 28, 2004 amendments to 33 CFR 151, subpart D, created a new Mandatory BWM Program, marine safety personnel should take steps to educate the maritime community about these requirements and ensure all interested parties are aware of this NVIC and the guidance provided within it.

Marine safety personnel should emphasize the following items as a part of outreach efforts:

a. The Coast Guard is collecting BWM data to determine ballasting practices and delivery patterns that may transfer ANS into and throughout the waters of the United States.

b. All vessels equipped with ballast water tanks (including wing tanks and dual purpose fuel tanks) are required to report even if they are declaring NOBOB or have no intentions of discharging ballast in U.S. waters, unless specifically exempted under 33 CFR 151.2010.

c. BWM reports are now required each time a vessel enters a COTP zone to anchor or moor, regardless of whether the vessel operated beyond the U.S. EEZ.

d. Failure to submit accurate and complete BWM reports, and maintain the required BWM records, may result in civil or criminal penalties.

e. Electronic means (internet and e-mail submissions via the forms found at the NBIC website) are the preferred method, and are strongly encouraged, for submitting the *Ballast Water Reporting Forms* to the NBIC.

f. Complete and accurate BWM records must be kept on board for two years and must include entries for every voyage to a U.S. port or place where the vessel enters a COTP zone to anchor or moor.

g. Printing out, signing, and retaining onboard copies of properly submitted *Ballast Water Reporting Forms,* along with the proof of receipts or e-mail replies from NBIC, is the best way to ensure compliance with both the reporting and recordkeeping requirements.

h. All vessels equipped with ballast water tanks, whether the tanks are designed for ballasting or not, must have a vessel-specific BWM plan on board.

i. The master, operator, person-in-charge and/or appropriate crew of any vessel equipped with ballast water tanks, must be trained in the application of the vessel's ballast water and sediment management procedures.

j. All vessels equipped with ballast water tanks, regardless of whether or not they operate outside the EEZ, must comply with the mandatory BWM practices listed in 33 CFR 151. 2035(a).

k. Each ballast tank containing water that was taken on within 200 NM of any coast must be exchanged with mid-ocean seawater if the vessel operates outside the U.S. EEZ with such water on board prior to discharging ballast from that tank in U.S. waters.

l. Masters of vessels entering U.S. waters from outside the EEZ are expected to retain on board the ballast water in tanks that contain, in whole or in part, water taken on within 200 NM of any coast, if mid-ocean exchange is not conducted prior to entering.

m. Vessel masters have ultimate responsibility for the safety of their vessels, and as such they are not required to conduct BWM practices (including exchange) if the master decides it will threaten the safety of the vessel, its crew, or its passengers due to adverse weather, vessel design limitations, equipment failure or other extraordinary conditions. If, however, exchange or any BWM practice is not conducted, accurate entries in the BWM records must be made and such

records must be made available to the Coast Guard upon request. In such cases, the master may then discharge the minimal amount of ballast to ensure the safety of the vessel during cargo operations.

The first time the above outreach guidance is delivered to a vessel during a ballast water examination, an entry shall be made in the *Special Notes* block of the MISLE database, *Ballast Water Inspection Activity* section, in accordance with the *MISLE – Quick Reference Guide for Ballast Water Management* found at: http://mislenet.osc.uscg.mil/user_guides.aspx.

3. BWM Examinations

Careful examination of BWM records, as described in this enclosure, is essential for completing a BWM examination and determining overall compliance with the additional mandatory BWM practices of 33 CFR 151.2035(b). Appropriate examination of BWM records will help MIs, BOs and PSCOs determine the source locations of the vessel's ballast water, whether or not the vessel has or will be discharging ballast in U.S. waters, and whether or not the vessel has been taking steps to properly manage its ballast water.

The primary goal of the BWM examination is to determine if the vessel is in compliance with the Mandatory BWM Program, and for the given weather and safety conditions of the previous voyage, verify whether or not the vessel successfully implemented BWM strategies to prevent, to the maximum extent practicable, the unintentional introduction and spread of ANS into U.S. waters.

The following steps, and the CG-840 Book in Enclosure (5) of this NVIC, should assist MIs, BOs and PSCOs in determining compliance with the mandatory BWM practices:

a. During the vessel boarding, check the anchor equipment and any portions of the hull, rudder and propeller visible at and below the waterline for excessive biofouling such as seaweed, barnacles, and other algae and shellfish. If conducting a dry dock exam, verify whether sediment has accumulated in the ballast tanks and inquire about the vessel's sediment disposal practices. Vessels must clean their ballast tanks, remove sediment from the tanks regularly, and ensure any material disposed is done so in accordance with all applicable federal, state and local requirements. If excessive fouling is present, excessive sediment has built up in the tanks, or tank sediment or residues have not been disposed of in accordance with applicable requirements, a violation may be issued for failing to comply with the BWM maintenance requirements of 33 CFR 151.2035(a)(3), (5) or (6).

b. Check to see that there is a vessel-specific BWM plan on board that describes the vessel's BWM strategy and allows those responsible for the plan's implementation to understand and follow the strategy. Plan verification should be flexible and MIs, BOs and PSCOs should be satisfied if the vessel is in general compliance. The plan does not require formal approval by the Coast Guard or any other authority, but it should meet the general scope of Appendix (A) to Enclosure (2). BWM plans for barges, tugs and other vessels with less sophisticated ballasting operations will be considerably less extensive than BWM plans for ocean-going deep draft vessels. If a vessel-specific BWM plan cannot be made available during the examination, issue a violation for failing to comply with 33 CFR 151.3035(a)(7) and ensure an expanded examination is conducted.

c. Verify that the master, operator, person-in-charge and appropriate crew have been trained on the application of ballast water and sediment management procedures as required by 33 CFR 151.2035(a)(8). If necessary, question individuals involved with ballast water and sediment management separately about their knowledge of the ship's BWM plan and strategies.

d. Check that signed copies of the ship's ballast water records, going back two years (or for vessels that have not operated outside the U.S. EEZ, the lesser of either two years, the August 13, 2004 implementation date, or the vessel's construction date) are readily available for inspection and properly filled out in accordance with 33 CFR 151.2045. Records consisting of properly completed *Ballast Water Reporting Forms* (OMB form Control No. 1625-0069) meet the requirements. Ballast water logs or record books that contain all the required information are also acceptable whether they are separate documents or integrated with other record systems.

e. Verify that records are completed for each voyage to a U.S. port or place of destination that takes the ship beyond the limits of any COTP zone. This can be done by simply spot-checking the ports of arrival in the vessel's deck log with the signed BWM records. For every U.S. port of arrival in a different COTP zone, and every arrival where the vessel transited outside and then back into the same COTP zone, there should be a signed BWM record entry on board, unless the vessel only conducts ballast operations (ballast uptake and discharge) exclusively in a single COTP zone.

f. Carefully inspect the BWM records of the most recent voyage to the current U.S. port or place to ensure all the required information is captured. Note any inconsistencies or gaps between the BWM documentation, the deck log, and the vessel's planned ballasting operations. If the vessel has ballast that they do not intend on discharging or are declaring NOBOB, then only the "Information on ballast water tanks that are to be discharged" (as listed in 33 CFR 151.2045(a)(5) or Section 5 of the *Ballast Water Reporting Form)* should be absent from the ballast water records, all other required BWM information should still be recorded.

g. If the vessel is on a BWM Lookout List for failing to submit BWM reports, or is suspected of being out of compliance with any of the BWM recordkeeping requirements, ensure an expanded examination is conducted to determine if the BWM records are consistent with the actual or planned ballasting operations.

h. If the vessel did not arrive from outside the U.S. EEZ, no further action is required unless the vessel is suspected of being out of compliance with any other applicable BWM requirements or other inspection items. If noncompliance is suspected, ensure additional records of prior voyages are inspected during an expanded examination to determine if the vessel operated outside the U.S. EEZ on any part of the transit to the present location.

   i. If the vessel has operated outside the U.S. EEZ on the voyage to the current U.S. port or place, determine from the records if ballast water was on board when it entered the U.S. EEZ.

   ii. If the BWM records indicate that the vessel carried ballast water into the U.S. EEZ, check the records to see if the vessel discharged, or will be discharging, ballast while in U.S. waters. If there are no discharge entries in the ballast water records, inquire with the master or chief mate if the vessel will be retaining all its ballast water on board while in U.S. waters.

iii. If the master or chief mate indicates that all ballast will be retained on board while in U.S. waters, inquire whether cargo or fuel will be loaded, or whether the vessel will be restricted by its draft at any time during this period, to determine if actual or planned operations are consistent with ballast water retention. Ask what ports the vessel has visited and what type of cargo, fueling and ballasting operations have been conducted. Also ask what the vessel's draft has been in relation to the depth of the U.S. ports or channels the vessel has already transited. When the depth of a port or channel limits draft, or when cargo or fuel is taken on without a comparable consumption of fuel or offload of cargo, ballast discharge is often conducted. For all ballast discharges in U.S. waters, accompanying discharge entries must be included in the onboard BWM records.

iv. If the records show that ballast water will be, or has been, discharged in U.S. waters, check to see if the BWM records show a management practice for each discharge entry.

v. If the records show that BWE was conducted for each discharge entry, spot check the latitude and longitude of the BWE endpoint entries of different tanks to verify that exchange occurred 200 NM or more from shore. If noncompliance is suspected, test the ballast water salinity during an expanded examination to determine if it is consistent with mid-ocean seawater.

vi. If the records indicate that an alternative management practice has been used, have the master provide documentation on the management practice used. Currently, no alternative management practices have been approved by the Coast Guard. However, if the vessel claims it is in the Coast Guard's STEP program, ask to see an acceptance letter by the Coast Guard's Office of Environmental and Operating Standards (COMDT G-MSO). Although management practices used by vessels enrolled in STEP have not been approved by the Coast Guard, vessels with a STEP acceptance letter are granted an equivalency as described by NVIC 01-04.

vii. If ballast water discharge is likely, and management practices are not shown in the records for each tank discharge, question the master and or chief mate about the reasons for not conducting BWE.

viii. If the master or chief mate claims the source of the water in the ballast tanks to be discharged was mid-ocean seawater, determine if this is reasonably consistent with the vessel's transit and operations. If necessary, spot check the latitude and longitude of the source water locations to verify that they are more than 200 NM from any coast. If noncompliance is suspected, test the ballast water salinity during an expanded examination to determine if it is consistent with mid-ocean seawater.

ix. If the master or chief mate claims the voyage to U.S. waters did not take the vessel more than 200 NM from shore for enough time to conduct BWE, determine if this appears consistent with the vessel's transit to the current U.S. port. If noncompliance is suspected, inspect the vessel's track line and/or inquire about the ballast pump rates during an expanded exam. If necessary, ensure additional records of prior voyages are inspected during an expanded examination to determine if the vessel operated outside the U.S. EEZ on any part of the transit to the present location and had previous opportunities to conduct BWE before entering U.S. waters. For example, if the vessel is being inspected in the port of Long Beach, CA after a voyage from the port of San Francisco, CA, but had previously

made a trans-Pacific crossing to arrive in the Port of San Francisco, the vessel may have had an opportunity to plan accordingly and conduct BWE on the trans-Pacific voyage.

x. If the master or chief mate claims that weather, design limitations, equipment failure, or other extraordinary conditions prevented BWE, determine if the claim appears consistent with the vessel's transit and voyage conditions to the present U.S. port. If necessary, examine weather reports, deck logs, class society documents or any other applicable onboard documentation during an expanded examination to evaluate the claim. Since the ultimate responsibility for the ship's safety belongs to the vessel master, MIs, BOs and PSCOs should be cautious when assessing such information. Careful review of the vessel Special Notes in MISLE may also assist in this determination. For example, if a vessel has several Special Notes indicating that it consistently did not conduct BWE due to poor weather conditions, and the onboard documentation does not support the claim, noncompliance may be suspected. Whether or not noncompliance is determined, whenever such a claim is made during a BWM examination a Special Note should be made in MISLE in accordance with the *MISLE – Quick Reference Guide for Ballast Water Management* (http://mislenet.osc.uscg.mil/user_guides.aspx) to document the vessel's history of making the claim.

4. Examining Onshore BWM Records of Unmanned or Uninspected Vessels

Examinations of BWM records of unmanned barges and uninspected vessels, which may be kept ashore with the owner or operator, should be conducted in conjunction with annual exams, voluntary exams, or periodic audits of the owners.

a. Incorporating into Other Examinations

When arranging dry dock, underwater in-lieu of dry dock (UWILD), or alternative hull exams (AHEs) for oil, chemical or other unmanned inspected barges, or in locations where voluntary uninspected vessel examinations are conducted, request that the vessel's BWM records be on hand for the inspection and review these records in accordance to the guidance provided in this NVIC.

b. Owner/Operator Audits for Uninspected Vessels

Owners and operators who are responsible for keeping BWM records ashore for their uninspected vessels should undergo periodic audits. The scope of the audit should include examining the required records, identifying whether each record entry is complete as per the job aid in Encl. (5), and validating the accuracy of such records against other supporting documents. Although it may be unrealistic to expect that every operator be regularly visited within each area of responsibility, such audits should be established at intervals established by the OCMI and be conducted by assigned Ballast Water Petty Officers. The following are logical and simple methods that may be used by the OCMI to trigger an audit of an uninspected vessel's BWM records:

- When a vessel or vessels of an uninspected owner or operator appears on a BWM lookout list issued from Coast Guard Headquarters for failing to submit the required BWM reports;

- When a marine casualty involves any uninspected vessel that is required to maintain BWM records ashore, the vessel may be targeted for a random audit, completely separate from the marine casualty investigation, that is conducted by the Ballast Water Petty Officer; and
- When a ballast water discharge or uptake violation report has been issued against a vessel that is required to maintain BWM records ashore.

5. Determining Compliance

Upon completing the examination, the Coast Guard inspection personnel will inform the master as to whether or not the vessel meets the mandatory BWM requirements. Each discrepancy should be noted in a CG-835 (for U.S. vessels) or CG-5437 (for foreign vessels) form and the master should be required to fix all discrepancies, update records, and/or submit amended BWM reports to the NBIC as applicable. All discrepancies shall be provided to the master and the appropriate enforcement actions should be initiated as per Enclosure (4) of this NVIC. If an expanded examination indicates that BWM records may have been deliberately altered or falsified, the MI, BO or PSCO should immediately request assistance from a qualified Coast Guard Investigating Officer (IO) to investigate more thoroughly.

A vessel is not in compliance with the mandatory BWM practices if any of the following occurs:

a. Excessive fouling is present on the hull, anchor equipment or visible piping; excessive sediment has built up in the tanks; or tank sediment or residues have not been disposed of in accordance with applicable federal, state and/or local requirements;

b. A vessel-specific BWM is not maintained on board the vessel;

c. A master, operator, person-in-charge or crewmember involved with applying the vessel's ballast water and/or sediment management procedures has not been trained on the proper application of these procedures;

d. The master, owner, operator, or person-in-charge fails to retain the necessary signed BWM records onboard the vessel for two years (or for vessels that have not operated outside the U.S. EEZ, the lesser of either two years, the construction date, or the August 13, 2004 implementation date);

e. The required BWM records are not complete and/or are inconsistent with the actual or planned ballasting operations of the vessel.

f. After a voyage that took the vessel 200 NM or more from land for sufficient time, and when no safety or other extraordinary conditions prevented BWE, the vessel carried ballast water into the U.S. water that was taken on within 200 NM of a coast and discharged that water in U.S. waters without conducting BWE.

g. The master, owner, operator, shipping agent or person-in-charge fails to provide complete and accurate BWM reports to the proper locations (the NBIC; COTP New York; COTP Buffalo, Massena Detachment; or the Saint Lawrence Seaway Development Corporation, as applicable) within the required timeframes, as determined from a BWM Lookout List provided from Coast Guard Headquarters;

If the vessel is listed in a current BWM lookout list because *Ballast Water Reporting Forms* have not been submitted, appropriate enforcement actions should be taken following the guidance in Enclosure (4) of this NVIC, unless the master or operator can provide reasonable evidence that disputes the reasons for the vessel being, or unless an enforcement activity has already been initiated in the MISLE database

by another port for the same lookout listing. Such evidence could include dated proofs of receipt or NBIC e-mail replies that indicated the required *Ballast Water Reporting Forms* were successfully transmitted to the NBIC. Fax transmittal records may indicate that the vessel attempted to submit a report to NBIC and should also be taken into consideration when making a determination of the vessel's overall compliance.

6. MISLE Documentation

Coast Guard marine safety personnel shall ensure that the appropriate documentation of BWM activities is entered into the MISLE computer system. This includes ballast water outreach efforts, deficiencies noted, expanded examinations conducted, enforcement efforts, involved parties, and any activity related to BWM. A step-by-step guide for proper ballast water entries into the MISLE system can be found in the *MISLE-Quick Reference Guide for Ballast Water Management*, located on the Coast Guard Intranet at http://mislenet.osc.uscg.mil/user_guides.aspx .

B. Expanded Examinations

Expanded examinations of vessel BWM practices are conducted to verify if actual or planned ballasting operations are consistent with the BWM records, claims made by a master or chief mate, and other supporting vessel documentation and records. An expanded exam may be conducted whenever:

- Information in the BWM records is missing or inaccurate;
- Information in the BWM records is not consistent with the vessel's planned cargo and fuel operations, or any stability or navigational constraints described by the master, chief mate or chief engineer;
- The vessel is on a BWM Lookout List for failing to submit BWM reports;
- The vessel does not maintain a BWM plan and/or the master, operator or crew have not been trained on the vessel's BWM or sediment management procedures;
- BWM records do not have appropriate discharge entries for each ballast tank discharged in U.S waters;
- The vessel is suspected of discharging unexchanged ballast water that was taken on within 200 NM of a coast, after it had operated beyond the U.S. EEZ;
- The vessel is suspected of discharging more than just the minimal amount of ballast water operationally necessary;
- The latitude and longitude of ballast source water or ballast water exchange endpoints appears inconsistent with the vessel's transit;
- The master or chief mate claims adverse weather, design limitations, equipment failure, security concerns or other extraordinary conditions prevented BWE, and the claim can not be supported;
- The vessel has outstanding BWM requirements or deficiencies noted in MISLE; or
- The vessel is suspected of being out of compliance with any of the BWM practices or other inspection items.

1. Expanded BWM Records Check

A vessel's BWM records should always be consistent with the actual or planned operations of the vessel. For example, if a vessel loaded with ballast water is taking on cargo or fuel, or is transiting a waterway that is shallower than the vessel's present draft, then ballast discharge would likely be a part of the vessel's operations. If there is reasonable evidence that the vessel has or will be discharging

ballast in U.S. waters, then the BWM records should have corresponding discharge entries for each tank discharged or to be discharged.

During any expanded examination, close scrutiny of the vessel's BWM records and other onboard documentation is critical to determining overall compliance. Inspection of additional BWM records from prior voyages may also be necessary during the expanded exam to verify accuracy and determine whether the vessel operated outside the U.S. EEZ on any part of the transit to the present location, or on any other voyage, where ballast exchange should have been conducted.

An expanded examination of the BWM records includes having the master provide proof from the vessel's BWM plan, deck log entries, charts, or other sources that ballasting operations are consistent with the on board BWM records. If applicable, ask to see the vessel's Oil Record Book Part II (ORB) and/or Cargo Record Book (CRB). These books are required under MARPOL Annex I and II (ORB for tankers over 150 tons and CRB for all ships carrying Noxious Liquid Substances in bulk) and might provide additional BWM information such as the position and time at the start and end of any ballasting operation.

An expanded examination may also include interviewing the master, chief mate and chief engineer separately about the vessel's ballasting operations, and requiring each to demonstrate how the planned ballast operations are consistent with cargo, stability, transit and fueling operations.

a. References for Verifying BWM Operations

An expanded examination may involve having the master provide proof from the vessel's BWM plan, deck log entries, charts, or other sources that ballasting operations are [were] consistent with the on board BWM records. Sources of onboard documentation that may help determine whether the vessel's BWM records are consistent with actual operations include:

- Ballast Water Management Plans;
- Oil Record Books;
- Cargo Record Books;
- Cargo plans/logs of the start and stop of cargo operations;
- Engineer Logs;
- Ballast work-boards or logs in the Engine Room or Ballast Control Room;
- Trim and Stability Books;
- Classification society documents and certificates;
- Tank Sounding Sheets or Sounding Logs;
- Third party reports (Surveyor/Gauging Records);
- Deck Logs for port visits and sea conditions;
- Navigational Charts for transit and control depths; or
- Coast Pilots for control depths.

2. Ballast Water Sampling.

Coast Guard MIs, BOs, or PSCOs may sample ballast water when a vessel reporting BWE is suspected of discharging unexchanged ballast in U.S. waters, and/or when a vessel is noncompliant with any of the BWM practices or other inspection items.

a. Salinity as an Indicator for BWE

Currently, ballast water salinity is the most commonly available indicator for assisting MIs, BOs and PSCOs in verifying whether or not ballast exchange has taken place. Other parameters (such as colored dissolved organic matter and trace metals) are also being investigated and tools for checking these may be issued to the field in the future.

The concept behind using salinity as an indicator of BWE is that the salinity of mid-ocean seawater usually is between 32 and 38 parts per thousand (ppt), whereas the salinity of coastal waters can vary from fresh (0 ppt) to hypersaline conditions greater than 40 ppt, depending on the freshwater input, evaporation, and mixing that occurs in the coastal system.

Sometimes, however, salinity is not a good indication of BWE. This may be the case when the salinity of the coastal source water is similar to that of mid-ocean seawater (between 32-38 ppt). In other instances, due to the configuration of the ballast tank or placement of ballast intake or discharge pipes within the tank, a complete exchange of ballast water may not be achievable.

Salinity measurements, therefore, should be used solely as an additional factor that may be evaluated during an expanded exam along with other supporting evidence when determining whether or not a vessel is or is not in full compliance with the mandatory BWM practices. If the salinity measurement is below 30 ppt or above 40 ppt, the indication is that the vessel has not conducted complete BWE unless other factors, such as tank design, indicates that the vessel cannot achieve a more efficient exchange of ballast water. On the other hand, while ballast water salinity between 30 ppt and 40 ppt will generally indicate compliance, noncompliance may not be completely ruled out if other sources of evidence strongly suggest BWE was not conducted and it is likely that the salinity of the coastal source water may be similar to mid-ocean seawater (ie. between 32 and 38 ppt).

b. Sampling Procedures

Checking ballast water salinity is done using a handheld salinity refractometer or a combination salinity, conductivity and temperature (SCT) meter. To use the refractometer, a PVC bailer with a stainless steel check/ball, tethered by a line and reel, is used to collect a sample from the ballast tank. A drop of water from the sample is then placed on the refractometer and the salinity is read from a scale by holding the instrument up to the light and looking through the eyepiece. To use the combination meter, the sensor from the instrument is lowered directly into the ballast tank and the salinity values are read directly from the display screen.

The manufacturers' stated accuracy of the ATAGO® model A366ATC handheld refractometers, and the YSI® Model 30 Salinity, Conductivity and Temperature Meters issued to Coast Guard marine safety personnel, is +/- 1.0 ppt. Therefore, readings above 29 ppt or below 41 ppt will be considered meeting the 30-40 ppt criteria. Each instrument should be calibrated in accordance with the manufacture's instructions before use, and at all times personnel conducting ballast water sampling should first consult the manufactures written procedures to ensure safe, accurate and precise measurements by whichever instrument used.

Ballast water is typically found in wing tanks, double bottom tanks, peak tanks, and cargo holds. Access to these tanks is normally gained through vents, manholes, hatches and sounding tubes. In some instances, stratification of the water column in the ballast tanks may occur. Lower salinity (less dense) water may layer at the surface of the tanks or may completely fill the

sounding tubes or vent pipes, therefore, if a vessel claims to have conducted an exchange and readings indicate otherwise, further samples from areas deeper in the tank or from other access points may be required. Samples taken from three vertical locations in wing tanks and cargo holds (top, middle, bottom), or two vertical locations in double bottom tanks (top and bottom), should provide an adequate representation of the water within those tanks.

Tanks that have already been discharged will often have residual ballast water that can still be sampled. Prior to sampling such a tank, first check the BWM records, and if necessary question the master or crew, to see if any ballast water has been transferred into the tank since the discharge occurred. If not, the remaining ballast water in that tank may be a representation of the water that was already discharged.

c. Health and Safety Precautions

Caution should always be used in sampling and handling ballast water. Since ships usually take on ballast water while in port or close to shore, many different types of organisms (including bacteria and viruses) may be present in the ballast tanks of ships. The potential presence of fecal matter and harmful organisms in ballast water makes it necessary for inspection personnel to be aware of the hazards and potential risks associated with conducting ballast water sampling. These risks can be minimized greatly by using personal protective equipment (PPE) and following basic hygiene and work practices. All Coast Guard personnel shall observe the following basic safety precautions when sampling ballast water:

- Wear a protective outer garment when taking ballast water samples. Standard issue Coast Guard coveralls or a Tyvek suit are acceptable. The outer garments will be removed upon completion of the inspection and placed in a plastic bag until they can be either washed or properly disposed of.
- Wear protective latex gloves and eye protection when sampling ballast water.
- Wearing a properly fitted respirator with an approved HEPA cartridge is optional.
- As soon as possible upon completion of the inspection, wash hands and face with anti-bacterial soap. Several different forms of VioNex® should be available, including towelettes. There should be no eating, drinking or smoking until the hands and face have been washed.
- Should ballast water come into contact with exposed skin – especially the eyes, nose or mouth – it should be flushed with clean water.

3. Discharge and Uptake Violation Reports

This section only applies to those vessels that are suspected of violating the mandatory discharge or uptake minimization requirements of 33 CFR 151.2035 (a)(1), (a)(2), or (a)(4), as determined from direct observation or a report of violation from a reliable source.

If there have been any reports of the vessel flushing tanks in areas other than the same location where the ballast was taken on, discharging sediments not in accordance with local requirements, or uptaking ballast water at nighttime or in areas where uptake should be minimized, request the master to provide any valid reasons that may dispute the claims or indicate that the actions were isolated cases taken in the interest of the safety of the vessel, its crew or its passengers. As necessary, follow through with an expanded examination and collect evidence as applicable from all pertinent on board document sources. If evidence suggests noncompliance, or the vessel has previous *Special Notes* in MISLE for similar actions, refer the case to a qualified Coast Guard Investigating Officer (IO) to pursue appropriate

enforcement action under 33 CFR 151.2035 (a)(1), (a)(2) or (a)(4) in accordance with Enclosure (4) of this NVIC. In all cases, such reports should be noted in the MISLE Ballast Water Exam Inspection Activity in accordance with the *MISLE – Quick Reference Guide for Ballast Water Management* found at http://mislenet.osc.uscg.mil/user_guides.aspx.

ENCLOSURE 4:

ENFORCEMENT MEASURES

FOR THE BALLAST WATER MANAGEMENT (BWM) PROGRAM

Enclosure 4 - ENFORCEMENT MEASURES FOR THE MANDAOTRY BALLAST WATER MANAGEMENT (BWM) PROGRAM

Introduction

Violations of the mandatory BWM requirements may be enforced through both civil and criminal penalties. COTPs and OCMIs should consider the full range of enforcement options and ensure the most effective and appropriate means are employed. To gain compliance with the BWM Program, COTPs and OCMIs should take into account the vessel's overall compliance (with the BWM and other vessel requirements) and should follow a tiered approach towards enforcement that includes verbal education, Letters of Warning (LOW), Notices of Violation (NOV), civil penalties, Suspension and Revocation (S&R), Captain of the Port Orders and criminal charges in the most egregious situations. Units may also consider including superior compliance recognition programs for those operators who continuously show superior compliance with new or existing BWM requirements. For all BWM enforcement actions taken, the appropriate involved parties should be linked to the enforcement activity in MISLE.

A. BWM Enforcement Options

1. Verbal Education

The goal is to ensure that all vessels are notified of their BWM obligations through outreach efforts prior to initiating remedial actions. During initial inspections, minor first time discrepancies should be noted in the *Narrative* section of the MISLE *Inspection Activity* and verbally explained to the master for immediate corrective action. All vessels provided with BWM outreach guidance and material shall have an entry made in the *Special Notes* block of the MISLE database, *Ballast Water Inspection Activity* section – these vessels should be considered as being previously notified of the BWM requirements if future enforcement action is initiated.

2. Letter of Warning (LOW)

Letters of Warning (LOWs) are enforcement actions that are appropriate for giving formal written notice of apparent minor violations. There are two types of LOWs: 1.) Letters of Warning In Lieu of Civil Penalty; and 2.) Letters of Warning In Lieu of Suspension and Revocation (see Appendix A to Enclosure (4)). If the OCMI or COTP determines that there is evidence of a violation of the mandatory BWM requirements, and a vessel and party history search does not indicate prior violations of the same statute, a LOW may be issued. In all cases, it is imperative to gather sufficient evidence to support the elements of the violation since refusal to accept the warning shall result in the initiation of the next level of enforcement (NOV, class I civil penalty, or S&R proceedings).

Warnings may be appropriate for the majority of offenses routinely encountered, however, there are certain violations that are not appropriate for issuing warnings. Refer to the *Marine Safety Manual, Vol. V* (COMDTINST M16000.10) and Commandant (G-MOA) Policy Letters, available at: http://cgweb.comdt.uscg.mil/g-mo/moa/moahm.htm, for additional guidance on LOWs.

3. Notice of Violation (NOV)

NOVs are issued as an alternative to the civil penalty process. They are often the quickest and most effective way to compel compliance since they can be issued in the field to the responsible person. The evidence for a NOV, however, is no less than that of a civil penalty, and the issuer must be prepared to proceed with a civil penalty case if the responsible person declines the NOV.

The *Notice of Violation User's Guide* (COMDT INST M5582.1A) includes violations of applicable BWM regulations for which NOVs may be issued. Documentation of such action must be completed in the MISLE enforcement activity in accordance with the *MISLE Investigation and Enforcement Process Guide.*

4. Administrative Civil Penalty

Civil penalties are normally initiated for major non-criminal violations, for repeat offenders, and any minor violations that are not corrected immediately by the responsible party. Persons who violate the mandatory BWM requirements are subject to civil penalties not to exceed $27,500, with each day of a continuing violation considered a separate violation, and vessels operated in violation of these regulations are liable *in rem* for any civil penalty assessed.

While a civil penalty action will not normally be initiated for first time reporting and record keeping requirement violations, if a vessel makes a return visit, arriving or departing with similar deficiencies, the case should be referred to a qualified Coast Guard Investigating Officer and the COTP or OCMI should consider initiating civil penalty proceedings.

If the cognizant COTP or OCMI determines that there is evidence of a violation of these requirements, an Administrative Civil Penalty may be the appropriate enforcement action. Documentation of this action must be completed in the MISLE enforcement activity (in accordance with the *MISLE Investigation and Enforcement Process Guide*) and forwarded to the Coast Guard Hearing Officer for action.

5. Captain of the Port Orders

Under 33 USC 1223 (b), a Captain of the Port Order may serve as an appropriate mechanism to achieve compliance with the applicable BWM regulations.

6. Suspension and Revocation (S&R)

After all evidence has been collected and all witnesses have been interviewed, the OCMI, Coast Guard District Office or Coast Guard Headquarters may decide to initiate S&R proceedings against a credentialed mariner under 46 CFR Part 5. S&R complaints issued under 46 CFR 5.33 for violations of the BWM requirements must contain the specific regulation or statutory title and section number; and documentation of the S&R action must be completed in accordance with the *MISLE Investigation and Enforcement Process Guide.*

7. Revocation of Clearance and Customs Holds

When a vessel owner or operator is in violation of the Great Lakes or Hudson River BWM requirements of 33 CFR 151, subpart C, the COTP may request revocation of clearance under the provisions of 33 CFR 151.1508. Since, however, the National Invasive Species Act does not explicitly include provisions for Letters of Undertaking (LOUs) or Surety Bonds, as do other familiar marine safety and pollution statutes, COTPs are advised to contact their respective District legal office before granting clearance to any vessel that had its clearance revoked or withheld under this statue.

8. Criminal Proceedings

Individuals who knowingly and willfully violate the mandatory BWM requirements may be guilty of a Class C Felony and be subject to criminal proceedings. Cases falling into this category should be rare and typically be reserved for chronic, willful violators. In all cases, units shall consult their District legal offices and refer to COMDTINST M16201.1 (Criminal Enforcement of Environmental Laws) and Chapter 9 of COMDTINST M16247.16 (Maritime Law Enforcement Manual) for case processing and procedures regarding the disposition and arrest of persons.

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Appendix A – Sample Letters of Warning

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U.S. Department of Homeland Security

United States Coast Guard

Commanding Officer
United States Coast Guard
Marine Safety Office
San Francisco Bay

Building 14, Coast Guard Island
Alameda, CA 94501-5100
Phone: (510) 437-3149
FAX: (510) 437-3072
Email:

16731
January 22, 200X

Delivered Certified Mail Return Receipt Requested

Mr. Joe Somebody
57 High Street
Oakland, CA 94501

Subject: WARNING IN LIEU OF CIVIL PENALTY

Dear Mr. Somebody:

Coast Guard personnel from my office visited your vessel on January 21, 200X, and discovered the following violation:

Violation Cite: 33 CFR 151.2045(a)
To wit: While serving as master on board the M/V VESSEL NAME on January 21, 200X, your required ballast water records were missing the following information: dates, locations, and volumes of ballast water that was discharged into the waters of the United States during your previous voyage.

It was determined that justice will be best served by issuing you a warning rather than pursuing a monetary penalty for your conduct as set forth above. You are advised that this warning will become a matter of Coast Guard record and will be considered for any future enforcement actions against you. You may accept or decline this warning. Indicate your choice below, sign and date and return a copy to the address above within 30 days of your receipt. Failure to return a signed copy will result in the Coast Guard considering this warning accepted. Should you chose to decline this warning, civil penalty proceedings will be initiated against you in accordance with 33 CFR 1.07. You may contact me at the number above with any questions.

Sincerely,

NAME
Rank, U.S. Coast Guard
Position
By direction of the Commanding Officer

****

I hereby accept / decline the above-mentioned warning.

_____ _____

Name Date

U.S. Department of Homeland Security

United States Coast Guard

Commanding Officer
United States Coast Guard
Marine Safety Office
San Francisco Bay

Building 14, Coast Guard Island
Alameda, CA 94501-5100
Phone: (510) 437-3149
FAX: (510) 437-3072
Email:

16722
January 22, 200X

Delivered Certified Mail Return Receipt Requested

Captain Joe Somebody
57 High Street
Oakland, CA 94501

Subject: WARNING IN LIEU OF SUSPENSION AND REVOCATION PROCEEDINGS

Dear Captain Somebody:

An investigation has revealed the following conduct on your part while serving aboard the M/V VESSEL NAME, O.N. D123456 under the authority of Merchant Mariner's Document No. 123456789:

Complaint: Violation of a Law or Regulation (46 CFR 5.33)
Violation Cite: 33 CFR 151.2041
To wit: While serving as master aboard said vessel on 6 January 200X, you failed to submit the required ballast water reporting information to the National Ballast Information Clearinghouse either before leaving your previous port of departure, or 24 hours before arriving at your next port of destination.

It was determined that justice will be best served by a issuing a warning rather than conducting a formal proceeding against you for your conduct as set forth above. You are advised that if you accept this warning it will become a part of your merchant mariner's record and will be considered during any future enforcement actions and credentialing transactions involving you. You may accept or decline this warning. Indicate your choice below, sign and date below and return a copy to the address above within 30 days of your receipt. Failure to return a signed copy will result in the Coast Guard considering this warning accepted. Should you chose to decline this warning, suspension and revocation proceedings will be initiated against your Merchant Mariner's Credential in accordance with Title 46, United States Code, Chapter 77. You may contact me at the number above with questions.

Sincerely,

NAME
Rank, U.S. Coast Guard
Position
By direction of the Commanding Officer

****

I hereby accept / decline the above-mentioned warning.

_____ _____

Name Date

United States Coast Guard

EXAM BOOK FOR VERIFYING BALLAST WATER MANAGEMENT COMPLIANCE

(FOR ALL VESSELS EQUIPPED WITH BALLAST WATER TANKS)

Name of Vessel	MISLE Activity Number
IMO/Document Number	Ballast Water Onboard Y / N
Date Completed	Ballast Discharged or to be Discharged into U.S. Waters? Y / N
Location	Previous Port of Call

Senior Marine Inspectors/Port State Control/ Boarding Officers

1. _____ 5. _____
2. _____ 6. _____
3. _____ 7. _____
4. _____ 8. _____

Use of the Exam Book for Verifying Ballast Water Management (BWM) Compliance:

Amendments made to 33 CFR 151, subpart D, in June and July of 2004, have created a new Mandatory Ballast Water Management (BWM) Program for all vessels equipped with ballast tanks operating in U.S. waters. BWM Examinations should be used to verify compliance with this new program and be conducted as part of regularly scheduled major port state control exams, and U.S. flag inspections (COI's and RIN's). The level of scrutiny each vessel receives during a BWM examination should be based on: the vessel's compliance with the BWM recordkeeping requirements, whether or not the vessel has operated outside the U.S. EEZ and is discharging ballast water in U.S. waters, the vessel's overall current and past compliance with the BWM requirements, and the results of other inspection items. If appropriate to verify ballast water exchange (BWE), MIs, BOs and PSCOs may sample ballast water to verify compliance or noncompliance with the BWM requirements of 33 CFR 151.2035(b). Such sampling should be conducted in accordance with the procedures outlined in Enclosure (3) of NVIC 07-04, CH-1 and the checklists in Section C of this book.

This inspection book is intended to be used as a job aid by Coast Guard Marine Inspectors and Boarding Officers during examinations of foreign and domestic vessels equipped with ballast water tanks. The lists contained within this book are not intended to limit the examination. Each marine inspector should determine the depth of the examination necessary. A checked-box should be a running record of what has been examined. It does not imply that all or any items are in full compliance.

This job aid does not constitute part of the official inspection record, and does not establish or change Federal laws or regulations. References given are only general guides. Refer to IMO publications, CFR's, NVIC's or any locally produced cite guides for specific regulatory references. Not all items in this book are applicable to all vessels equipped with ballast water tanks.

Pre-Examination Check-list:	Post-Examination Check-list:
❑ Review vessel history (in *Vessel Critical Profile*) pre-entry information, and any current BWM lookout list, as applicable ❑ Check personal protective equipment ❑ Calibrate ballast water sampling equipment IAW manufacture's instructions ❑ Gather adequate copies of this NVIC and other applicable BWM outreach material to distribute during the examination	❑ Complete MISLE Activity (add the BWM Examination Type to the *Inspection Activity*) ❑ Add BWM Special Notes to MISLE as necessary ❑ Initiate enforcement activity in accordance with Enclosure (4) of NVIC 07-04, if necessary

Table of Contents:

A. BWM Examination	
1. <u>Vessel Maintenance Requirements:</u> ❑ DURING DRY DOCK EXAMS (U.S. VESSELS ONLY), CLEAR EVIDENCE THAT THE VESSEL HAS REGULARLY CLEANED BALLAST TANKS AND REMOVED SEDIMENTS. NOTE VESSEL'S SEDIMENT DISPOSAL PRACTICES _____ ❑ ORGANISMS AND SEDIMENT REMOVED FROM ANCHORS AND ANCHOR CHAINS • No debris in the anchor locker • No barnacles, algae , etc. on the anchor[s] or chain[s] ❑ FOULING ORGANISMS REMOVED FROM THE HULL • Clean waterline • No barnacles, algae , etc on hull **Comments:** _____ _____	33 CFR 151.2035(a)(3), (a)(5) and (a)(6)
2. <u>BWM Plan</u>: ❑ VESSEL-SPECIFIC PLAN ❑ PLAN ALLOWS THOSE RESPONSIBLE FOR THE PLAN'S IMPLEMENTATION TO UNDERSTAND AND FOLLOW THE BWM STRATEGY FOR THE VESSEL **Comments:** _____ _____	33 CFR 151.2035(a)(7)
3. <u>BWM Training</u>: ❑ MASTER, OPERATORS, PERSONS-IN-CHARGE, AND APPROPRIATE CREW TRAINED ON THE APPLICATION OF THE VESSEL'S BWM AND SEDIMENT MANAGEMENT PROCEDURES. **Comments:** _____ _____	33 CFR 151.2035 (a)(8)

4. <u>BWM Records</u> ❑ BWM RECORDS RETAINED ONBOARD FOR 2 YEARS (OR FOR NEWLY CONSTRUCTED VESSELS AND VESSELS THAT HAVE NOT OPERATED OUTSIDE THE EEZ, THE LESSER OF EITHER 2 YEARS , THE BUILD DATE, OR SINCE AUGUST 13, 2004). ❑ BWM RECORDS FOR ALL VOYAGES TO U.S. PORTS OR PLACES WHERE THE VESSEL ANCHORED OR MOORED. --- RECORDS COMPLETE WITH THE FOLLOWING INFORMATION: ❑ VESSEL INFORMATION • Vessel Name • IMO Number/Official Number • Owner • Vessel Type • Gross Tonnage • Call Sign (as applicable) • Flag ❑ VOYAGE INFORMATION • Arrival Port and Arrival Date • Vessel Agent (or Charterer) • Last Port • Country of Last Port • Next Port • Country of Next Port ❑ TOTAL BALLAST WATER INFORMATION • Total Ballast Water on Board - Volume (with units) - Number of Tanks with Ballast • Total Number of Ballast Tanks on the Ship • Total Ballast Water Capacity of the Vessel - Volume (with units) ❑ BALLAST WATER MANAGEMENT • Total number of tanks/holds to be discharged • Total number of tanks that underwent management • Management methods (BWE or specified alternative method)	33 CFR 151.2045

❑ INFORMATION ON TANKS TO BE DISCHARGED • *Tanks/holds* discharged or to be discharged in U.S. waters • Origin (*BW Sources*) of ballast water discharged or to be discharged - Date(s) - Location(s) - Volume(s) • Ballast water management (*BW Management Practices*): - Date(s) - Location (endpoint latitude and longitude) - Volume(s) - Method - Thoroughness (percent exchange) - Sea height at time of BWM • Expected ballast water discharges (*BW Discharges*) in U.S. waters: - Expected date - Expected location - Expected volume - Expected salinity (1.0 for fresh or n/a for salt water acceptable) ❑ LOCATION, IF SEDIMENT IS TO BE [HAS BEEN] DISCHARGED WITHIN U.S. WATERS ❑ RESPONSIBLE OFFICER'S SIGNATURE. --- ❑ BWM RECORDS ARE CONSISTENT WITH PLANNED CARGO OPERATIONS, FUEL OPERATIONS, AND ANY STABILITY OR NAVIGATIONAL CONSTRAINTS DESCRIBED BY THE MASTER, CHIEF MATE OR CHIEF ENGINEER. ❑ DISCHARGE ENTRIES ARE MADE IN THE RECORDS FOR EACH TANK DISCHARGED, OR ANTICIPATED TO BE DISCHARGED, IN U.S. WATERS. **NOTE**: Ballast water discharge in U.S. waters may be likely when: • A vessel is taking on more cargo or fuel in U.S. waters than is being offloaded or consumed; and/or • A vessel has to decrease draft in order to transit a U.S. waterway For all ballast water discharges in U.S. waters, equivalent discharge entries for each tank must be included in the onboard BWM records, regardless of whether the vessel operated outside the U.S. EEZ. **Comments:** _____ _____	

5 Additional BWM Practices

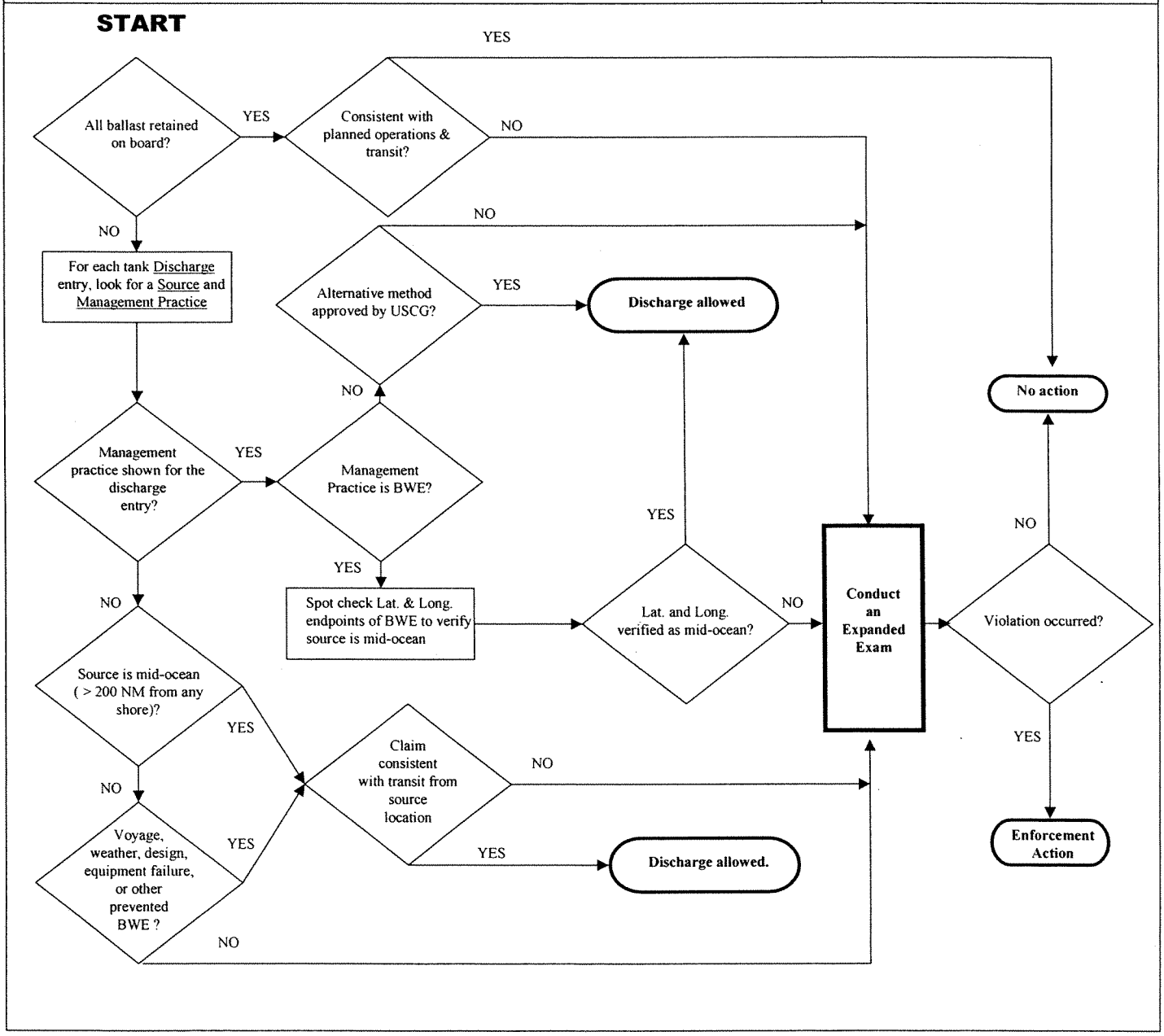
33 CFR 151.2035 (b)

**ONLY FOR VESSELS THAT HAVE ENTERED U.S.WATERS AFTER OPERATING BEYOND THE U.S. EEZ

☐ VESSEL IMPLEMENTS ADDITIONAL MANDATORY BWM PRACTICES

- ☐ Retains ballast water while in U.S. waters.
- ☐ Conducts ballast water exchange (BWE)
- ☐ Uses alternative BWM method approved by USCG

(follow the flowchart below)



B. Expanded BWM Examinations

Expanded examinations are conducted to verify if actual or planned ballasting operations are consistent with the BWM records, claims made by a master or chief mate, and other supporting vessel documentation and records.

Sources of onboard documentation that may help determine whether the vessel's BWM records are consistent with actual operations include:

- Ballast Water Management Plans;
- Oil Record Books;
- Cargo Record Books;
- Cargo plans/logs of the start and stop of cargo operations;
- Engineer Logs;
- Ballast work-boards or logs in the Engine Room or Ballast Control Room;
- Trim and Stability Books;
- Classification society documents and certificates;
- Tank Sounding Sheets or Sounding Logs;
- Third party reports (Surveyor/Gauging Records);
- Deck Logs for port visits and sea conditions;
- Navigational Charts for transit and control depths; or
- Coast Pilots for control depths.

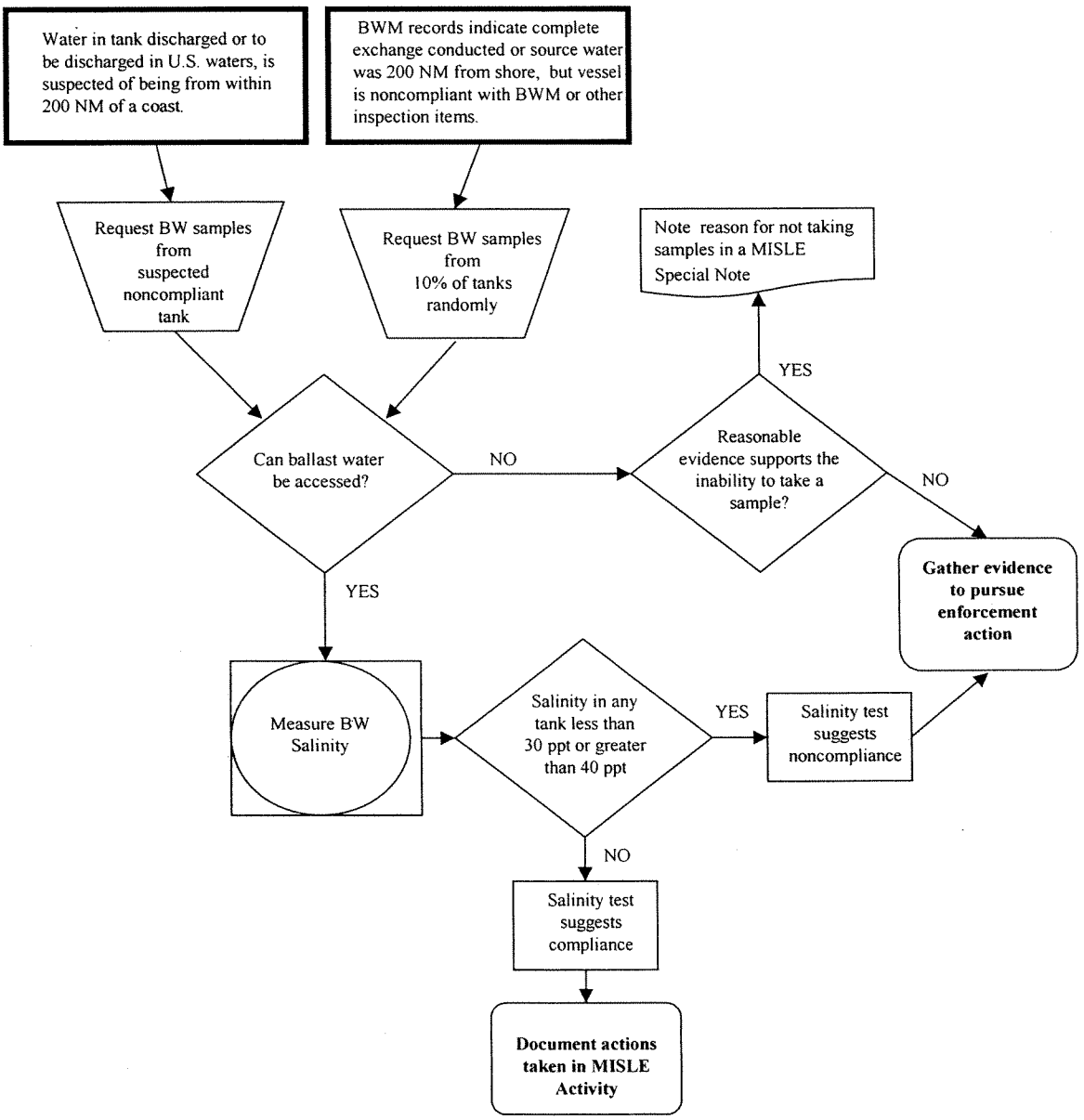
MI, BO and PSCO teams may sample ballast water when a vessel is suspected of discharging unexchanged ballast in U.S. waters, and/or when a vessel is noncompliant with any of the BWM practices or other inspection items. If the BWM records indicate that ballast water has been exchanged or the source water was from a location greater than 200 NM from shore, but noncompliance is suspected, the ballast tanks should be sampled. Ballast water with salinity readings found to be below 30 ppt or above 40 ppt is an indication that BWE has not been conducted and the onboard ballast water was probably not taken from a mid-ocean source.

Samples may be obtained from vent tubes, manholes, access plates or sounding tubes. Samples taken from three vertical locations in wing tanks and cargo holds (top, middle, bottom), or two vertical locations in a double bottom tanks (top and bottom), should provide an adequate representation of the water within those tanks when there is a concern that lower salinity (less dense) water may be layering at the surface of the tank or completely filling the sounding tubes or vent pipes.

Coast Guard personnel shall observe the following basic safety precautions when sampling ballast water:

a. Wear a protective outer garment when taking ballast water samples. Standard issue Coast Guard coveralls or Tyvek suits are acceptable. The outer garments will be removed upon completion of the inspection and placed in a plastic bag until it can be either washed or properly disposed.
b. Wear protective latex gloves and eye protection when sampling ballast water.
c. Wearing a properly fitted respirator with and approved HEPA cartridge is optional.
d. As soon as possible upon completion of the inspection, wash hands and face with anti-bacterial soap. Several different forms of VioNex® should be available, including towelettes. There should be no eating, drinking or smoking until the hands and face have been washed.
e. Should ballast water come into contact with exposed skin – especially the eyes, nose or mouth – they should be flushed with clean water.

The following flowchart is designed to assist Marine Inspectors and Boarding Officers in gathering the appropriate information when ballast water sampling is necessary to determine compliance with the mandatory BWM requirements:



NOTE: tanks that have already been discharged will often have residual ballast (NOBOB) that can still be sampled. Prior to sampling such a tank, first question the master or crew to see if any ballast has been transferred into the tank since the discharge occurred. If water has not been transferred into the tank after the discharge, the remaining ballast water in that tank may be a representation of the water that was discharged.

C. Ballast Water Sampling Form

Vessel Name: _____ **IMO/Document #** _____

Date: _____

Name and Signature of Sample Collector: _____

Name and Signature of Sample Tester: _____

☐ Obtain a copy of the most recently submitted BWM Reporting Form, or applicable BWM records containing the BWM information for the tanks to be tested. If copies cannot be obtained, complete a new Ballast Water Reporting Form (downloadable from: http://invasions.si.edu/nbic/submit.html) using the information provided in the most recent BWM record entries.

Comments: _____

_____

☐ Check and don personal protective equipment.

- When possible, sample through vent pipes, manholes or access plates instead of through sounding tubes.
- Samples should be taken from 3 vertical locations (top, middle, and bottom) within the water column of wings tanks, or from 2 vertical locations (top and bottom) within the water column of double bottom tanks.
- Use bailer sampling devices to collect samples at the desired depth.
- Rinse and dry bailer between samples.

Instrument used to Test Ballast Water:

_____

☐ Calibrate test instrument IAW manufacturer's instructions.

☐ If using a handheld refractometer, verify a zero reading with distilled water before sampling.

Tank /Hold Identification	Tank Location (Top, Middle, Bottom)	Salinity (ppt)	Notes: