U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: G-MSO-4
Phone: (202) 267-2716
Fax: (202) 267-4690

COMDTPUB P16700.4
NVIC 07-04

JUN 17 2004

NAVIGATION AND VESSEL INSPECTION CIRCULAR 07-04

Subj: 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 Notice of Proposed Rulemaking (68 FR 44691, July 30, 2003) "Mandatory Ballast Water Management Program for U.S. Waters"

1. PURPOSE. This Navigation and Vessel Inspection Circular (NVIC) provides guidance for Coast Guard personnel, vessel owners and operators, shipping agents and persons-in-charge concerning compliance with, and enforcement of, the U.S. Coast Guard's 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.

DISTRIBUTION – SDL No. 141

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A																										
B		1	1																							1
C					1								1	1											1	
D												*														
E														1	1											
F																										
G																										
H																										

NON-STANDARD DISTRIBUTION: See page 4

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.

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 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 Secretary of Transportation 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 Smithsonian Environmental Research Center, 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 record keeping 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 Secretary of Transportation 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 new 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 is aimed at developing ballast water discharge standards, which are 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 within 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.

T. H. Gilmour
T. H. GILMOUR
Rear Admiral, U.S. Coast Guard
Assistant Commandant for Marine Safety,
Security and Environmental Protection

Encl: (1) BWM Reporting and Recordkeeping Guidance
(2) BWM Reporting and Recordkeeping Verification and Compliance
(3) BWM Enforcement Guidance

Non-Standard Distribution:

D:l Liaison Officer of Recognized and Authorized Classification Societies (1)
ABS Americas (1)
Bureau Veritas, North America (1)
Det Norske Veritas, Maritime North and South America (1)
Germanischer Lloyd, Americas Division (1)
Lloyds Register North America Inc. (1)
MSC Liaison (1)

Enclosure 1 - BWM REPORTING AND RECORDKEEPING GUIDANCE

Introduction…….. 1

A. Applicability……. 1

1. Exemptions.……. 1
2. Great Lakes and Hudson River Applicability..…… 1
3. Vessels engaged in the foreign export of Alaskan North Slope Crude Oil……. 2

B. BWM Reporting Guidance……. 2

1. Reporting Requirements for all U.S Ports or Places ……...……... 2
2. Great Lakes and Hudson River Reporting Requirements……...…… 2
3. Online Reporting……. 4

   Table 1: Where to send this form……... 3
4. Alternative Reporting Methods……... 4

   b. Fax Reporting …….…….. 4

   a. Postal Service/Mail-in Reporting..…… 4
5. Report Format, Content and Discrepancies...……. 5

   Table 2: How to avoid the common problems associated with submitting *Ballast Water Reporting Forms* to the NBIC……..….... 5

C. BWM Recordkeeping Guidance……...…… 6

1. Onboard Recordkeeping Requirements…….. 6

Appendix A to Enclosure (1) - U.S. Coast Guard COTP Zones and Common U.S. Ports…. A-1

Figure A-1: East Coast COTP Zones...……..……... A-2

Figure A-2: West Coast COTP Zones……...……..……..…….... A-3

Figure A-3: COTP Zone in Alaska…….……..……..…….…….…..... A-4

Table A-1: List of Coast Guard COTP Zones and Common U.S. Ports.……..... A-5

Appendix B to Enclosure (1) - Sample Ballast Water Reporting Forms……. B-1

Enclosure 2 - BWM REPORTING AND RECORDKEEPING VERIFICATION AND COMPLIANCE

Introduction…… 1
A. COAST GUARD IMPLEMENTATION…… 1
1. Pre-examination Preparation…… 1
2. Education and Accountability Tracking…… 1
3. Examination of BWM Records…… 2
4. Expanded Examination of BWM Records…… 3
5. Evaluation of Compliance…… 4
6. MISLE Documentation…… 4

Appendix A to Enclosure (2) – Examination of BWM Records Job Aid…… A-1

Enclosure 3 - BWM ENFORCEMENT GUIDANCE

Introduction…… 1
A. BWM ENFORCEMENT OPTIONS…… 1
1. Verbal Education…… 1
2. Letter of Warning (LOW)…… 1
3. Notice of Violation (NOV)…… 2
4. Administrative Civil Penalty…… 2
5. Captain of the Port Orders…… 2
6. Suspension and Revocation…… 3
7. Revocation of Clearance and Customs Holds…… 3
8. Criminal Proceedings …… 3

Appendix A to Enclosure (3) – Sample Letters of Warning…… A-1

Sample Letter of Warning in Lieu of Civil Penalty…… A-3
Sample Letter of Warning in Lieu of Suspension and Revocation Proceedings…… A-4

BALLAST WATER MANAGEMENT (BWM)

REPORTING AND RECORDKEEPING GUIDANCE

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.

For the purpose of the BWM requirements:
Port or place of destination *means any port or place where a vessel is bound to anchor or moor;* and
Ballast tank *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.*

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. Exemptions.

As amended, the only vessels that are exempt from the mandatory BWM requirements under 33 CFR 151.2010 are:

- Vessels that operate exclusively within one COTP zone;
- Crude oil tankers engaged in coastwise trade; and
- Vessels of the Department of Defense, Coast Guard, or any of the Armed Services as defined within 33 USC 1322 (a) and (n).

2. 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.

3. 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 in 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. Diagrams of the Coast Guard COTP zones, 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. For example, if a vessel transits from Miami, FL, to Key West, 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.

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. The master, owner, operator, agent and person-in charge are 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 (a) (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(a)(3) and the guidance provided within this Enclosure (see Table 1).

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 (315-764-3283) 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 35 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 (2115-0598), Washington, DC 20503

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. 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 records, 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.

b. 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. If ballast conditions change after a report is submitted, an amended form must be provided to the NBIC. Each report must also 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.

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	Problems associated with the different reporting methods				
		Web	PDF (e-mail)	Word (e-mail)	Fax	Postal
All	No parts of the form should be cut off.				X	X
All	All information must be legible.				X	X
1, 2	Ship and voyage information must be complete and accurate.	X	X	X	X	X
1, 2, 3, 4	All fields in Sections 1-4 of the form must be filled out.		X	X	X	X
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.			X	X	X
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. You cannot have 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.	X	X	X	X	X
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.	X	X	X	X	X
4	The number of tanks discharged in Section 4 of the form should match the discharge information in Section 5.			X	X	X
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.	X	X	X	X	X
2, 5	Enter all dates in Sections 2 and 5 as DD/MM/YYYY. Do not enter date ranges (see instructions in Encl. (1)).				X	X
2, 5	Do not abbreviate the names of ports in Sections 2 or 5 of the form.	X	X	X	X	X
5	When filling in Section 5, the "ENDPOINT LAT. LONG." field should be filled in with a latitude and longitude not a port	X	X	X	X	X

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 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.

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

Figure A-1: East Coast COTP Zones

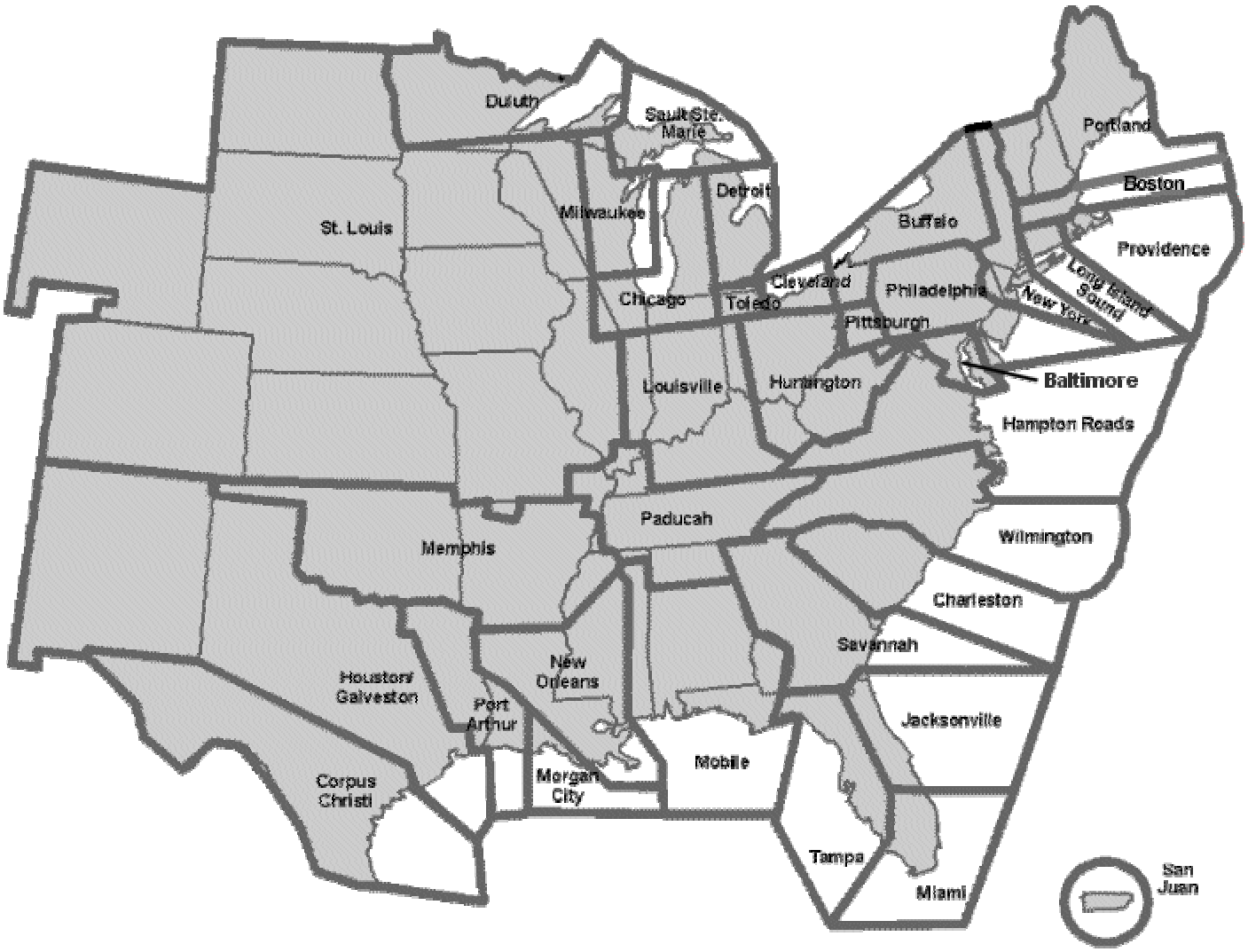

Figure A-3: West Coast COTP Zones

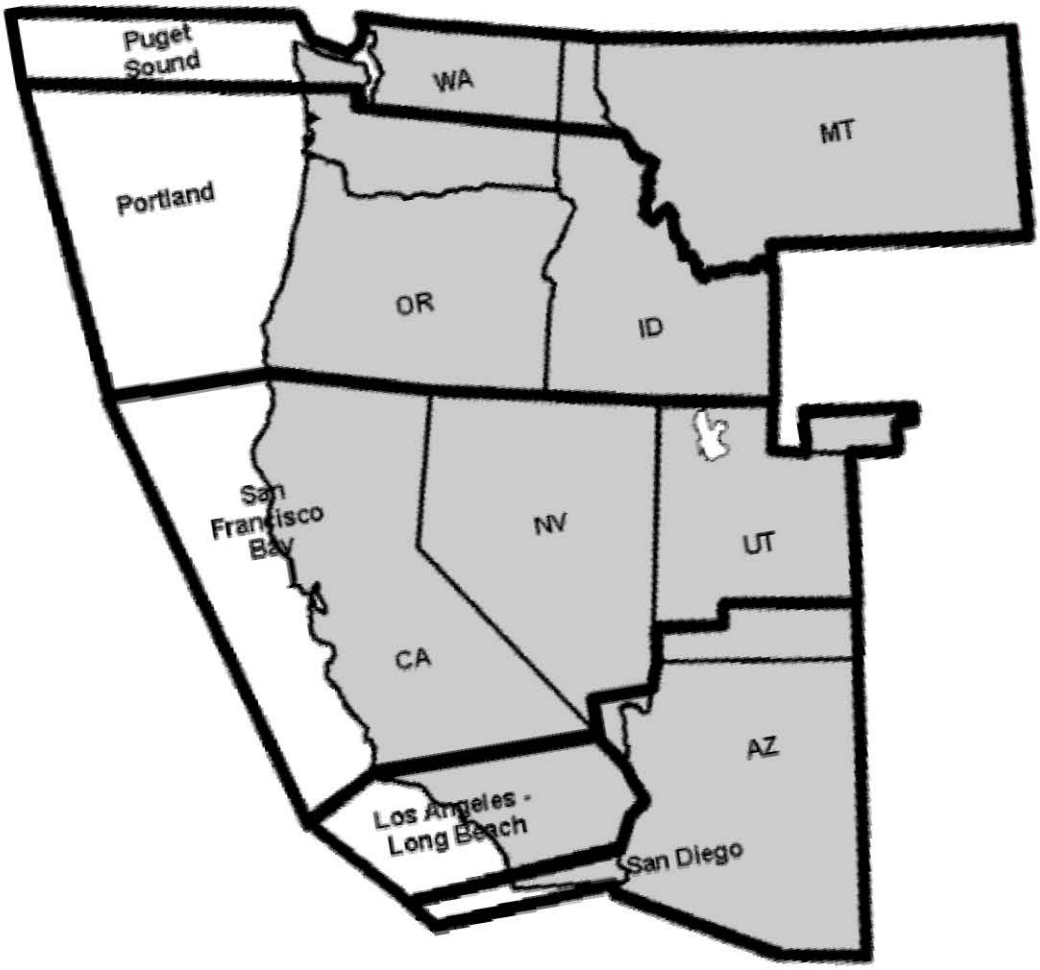

Figure A-3: COTP Zones in Alaska

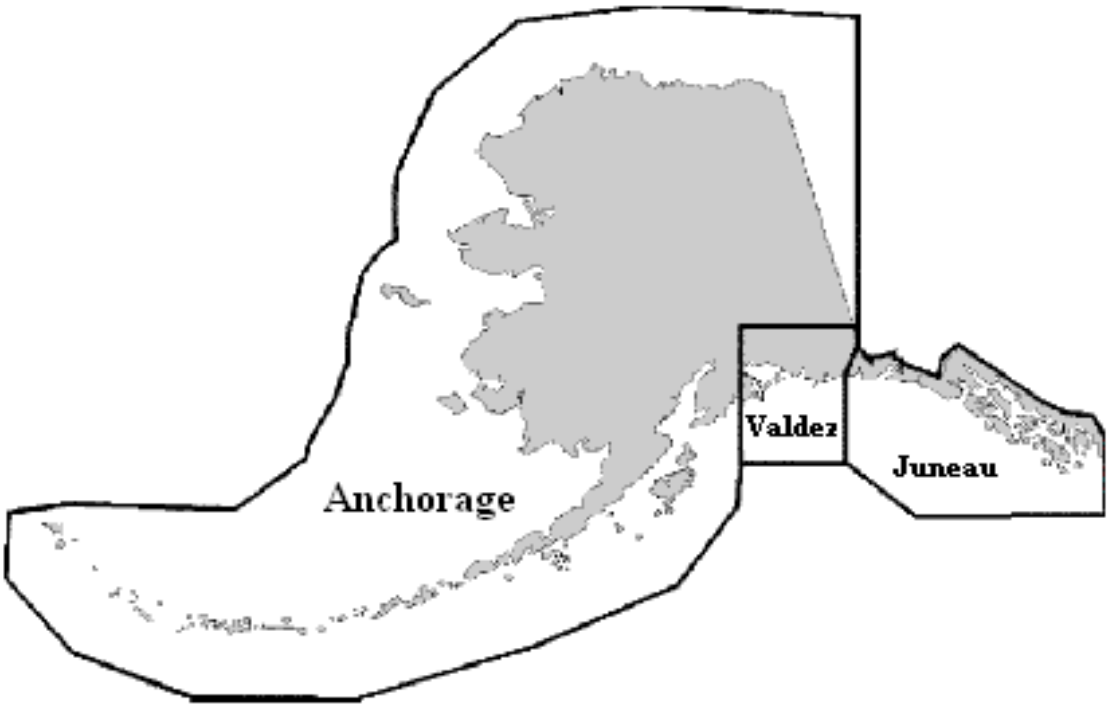

Table A-1: List of Coast Guard COTP Zones and Common U.S. Ports

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
	Key West, FL
	Palm Beach, FL
	Port Everglades, 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
New Orleans	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
MSU Lake Charles	Lake Charles, LA
Houston	Houston, TX
Galveston	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

COTP Zone	U.S. Port
Anchorage	Anchorage, AK
	Barrow, AK
	Beluga, AK
	Bethel, AK
	Brevig Mission, 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
	Teller, AK
	Tin City, AK
	Wainwright, 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

[This page Intentionally Left Blank]

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 (…T, LT, ST)*
IMO Number: 1234567	Arrival Date: 10/04/99		…ast Water on Board:
Owner: United Fullname Vessels	Agent: Arrival Agents, Inc.		Volume / Units / No. of Tanks in Ballast
Type: Ro-Ro	Last Port: Liverpool	Country of Last Port: United Kingdom	…00 / … / 19
GT: 85923			…st Water Capacity:
Call Sign: RX7T	Next Port: Ghent	Country … ext … Belgiu…	Volume / Units / Total No. of Tanks on Ship
Flag: United States of America			…30 / m3 / 24

4. BALLAST WATER MANAGEMENT Total No. Ballast W… …nks … …scha… …1

Of tanks to be discharged, how many: Underwent Excha… ☐ … …ent Alt… …ge 0

Please specify alternative method(s) used, if … _____

If no ballast treatment conducted, state … not: _____

Ballast management plan on board? …ES ☒ NO ☐ Ma… m… …n …eme…? YES ☒ NO ☐

IMO ballast water guidelines on boa… …?(20)]? …YES … NO…

5. BALLAST WATER HISTORY: …ank… …ste… po… state of arrival; IF NONE, GO TO #6 ***(Use additional sheets as needed)***

Tanks/ Holds List multiple sources/tanks separately	BW SOURCES				…MANAGEMENT PRACTICES						BW DISCHARGES			
	DATE DD/MM/YY	PORT … LAT. L…	…UM… …nits	…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

SAMPLE

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
Type: Tanker	Last Port: Buenaventura	Country of Last Port: Mexico	8000 / 12
GT: 99523			Total Ballast Water Capacity:
Call Sign: JP5L	Next Port: Valdez	Country of Next Port: United States of America	Volume / Units / Total No. of Tanks on Ship
Flag: Malta			5000 / 3 / 31

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: Seas

Ballast management plan on board? YES ☒ NO ☐ Has the plan been implemented? YES ☐ NO ☐

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

5. BALLAST WATER HISTORY: Record all tanks to be ballasted in the ship of a vessel; 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 LAT. LONG.	VOLUME (units)		DATE DD/MM/YY	WAYPOINT 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

SAMPLE

BALLAST WATER MANAGEMENT (BWM) REPORTING AND RECORDKEEPING VERIFICATION AND COMPLIANCE

Enclosure 2 - BWM REPORTING AND RECORDKEEPING VERIFICATION AND COMPLIANCE

Introduction…….. 1

A. Coast Guard Implementation……. 1

1. Pre-examination Preparation……..……. 1
2. Education and Accountability Tracking…….……. 1
3. Examination of BWM Records……..……. 2
4. Expanded Examination of BWM Records……. 3
5. Evaluation of Compliance…….……. 4
6. MISLE Documentation……..……. 4

Appendix A to Enclosure (2) - Examination of BWM Records Job Aid…….…… A-1

Introduction.

This enclosure provides guidance to Coast Guard COTPs and OCMIs to effectively monitor compliance with the BWM reporting and recordkeeping requirements.

A. Coast Guard Implementation.

Coast Guard Marine Inspectors (MIs) and Boarding Officers (BOs) shall examine the onboard BWM records, make appropriate inquiries to assess adherence with the BWM recordkeeping requirements, and pursue appropriate enforcement actions when necessary.

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. These vessels should undergo an expanded examination of their BWM records during regularly scheduled inspections and boardings. Appropriate enforcement action should be taken against all vessels listed on the BWM lookout lists unless reasonable evidence is provided by the master which disputes the reasons for the vessel being listed, or unless an enforcement activity has already been initiated in 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 and BOs shall be familiar with:

- 33 CFR 151, subparts C and D;
- These procedures;
- Any current BWM lookout lists issued by Coast Guard Headquarters; and
- The vessel's history as shown in the MISLE database.

2. Education and Accountability Tracking.

As education of the maritime community is a central element of the Coast Guard's BWM Program, marine safety personnel should ensure that interested parties are aware of this NVIC and the guidance provided within it.

Marine safety personnel should also emphasize that:

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 (Web and e-mail submissions via 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; and

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.

When the above outreach guidance is delivered during a ballast water examination, an entry shall be made in the *Special Notes* block of the MISLE database, *Ballast Water Inspection Activity* section, that states:

"Ballast water reporting and recordkeeping guidance provided to vessel on [DATE]."

This entry will document the vessel's notification of the requirements, help prevent redundant outreach efforts, and provide a baseline for any future enforcement actions. [NOTE: The retention date for this *Special Note* in MISLE should be set for 2 years]

3. <u>Examination of BWM Records</u>.

MIs and BOs shall examine the shipboard BWM records and determine if it appears that the vessel complies with the reporting and recordkeeping requirements. The following steps, and the suggested job aid in Appendix A to Encl. (2), will help MIs and BOs determine compliance with the BWM reporting and recordkeeping requirements [NOTE: MIs and BOs are encouraged to add the job aid in Appendix A to existing CG-840 booklets until formally incorporated into the appropriate manuals]:

a. 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 or the August 13, 2004 implementation 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.

b. 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 on board.

c. Review the BWM records to ensure all the required information is captured. 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.

d. Check to see if the BWM records indicate whether the vessel has or intends to discharge ballast in U.S. waters.

e. Ask the master, chief mate or chief engineer 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 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.

f. Note any inconsistencies or gaps between the BWM documentation, the deck log, and the vessel's draft or cargo operations.

g. If the vessel is suspected of being out of compliance (with any applicable BWM requirements or other inspection items), conduct an expanded BWM record check.

4. <u>Expanded Examination of BWM Records</u>.

If the vessel is listed on a current BWM lookout list issued by Coast Guard Headquarters, has outstanding BWM requirements or deficiencies noted in MISLE, or is suspected of non-compliance after a cursory check of the BWM records, an expanded examination of the vessel's BWM records should follow.

a. An expanded record check includes having the master provide proof from the vessel's BWM plan, deck log entries, charts, or other sources (see "Expanded BWM Record Check" in Appendix A-2 to Enclosure (2)) 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.

b. An expanded records check 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.

c. If an expanded BWM record check indicates that BWM records may have been deliberately altered or falsified, the MI or BO should immediately request assistance from a qualified Coast Guard Investigating Officer (IO) to investigate more thoroughly.

d. If the vessel is listed in a current BWM lookout list because they have submitted incomplete or incorrect reports, or if the BWM records appear to be out of compliance, follow the tiered approach to enforcement as indicated in Enclosure (3) of this NVIC. Note each discrepancy in a CG-835 (for U.S. vessels) or CG-5437 (for foreign vessels) form and require the vessel to fix all discrepancies, update their records, and/or submit amended BWM reports to the NBIC as applicable.

e. 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 (3) of this NVIC, unless the master or operator can provide reasonable evidence that exonerates them. 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.

f. Upon completion of the inspection, the Coast Guard inspection personnel will inform the master as to whether or not the vessel meets the mandatory BWM reporting and record keeping requirements. Any discrepancies shall be provided to the master and the appropriate enforcement actions should be initiated as per Enclosure (3) of this NVIC.

5. Evaluation of Compliance.

A vessel is not in compliance with the mandatory BWM reporting and recordkeeping requirements if any of the following occurs:

a. The master, owner, operator, shipping agent or persons-in-charge fails to provide the BWM report to the proper location (the NBIC; COTP New York; COTP Buffalo, Massena Detachment; or the Saint Lawrence Seaway Development Corporation, as applicable) within the required timeframe;

b. 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 or the August 13, 2004 implementation date); or

c. The required records and/or reports are not complete and accurate.

Failure to provide or maintain the above documentation is a violation of the regulations, and may be subject to penalties.

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 on the Coast Guard Intranet at http://mislenet.osc.uscg.mil/user_guides.aspx .

Appendix A –Examination of BWM Records Job Aid

[This Page Intentionally Left Blank]

Examination of BWM Records: (33 CFR 151.2045)

- ☐ BWM RECORDS READILY AVAILABLE AND RETAINED ONBOARD FOR 2 YEARS (OR FOR VESSELS THAT HAVE NOT OPERATED OUTSIDE THE EEZ, THE LESSER OF EITHER 2 YEARS OR SINCE AUGUST 13, 2004).

- ☐ SIGNED RECORDS COMPLETE FOR EVERY VOYAGE TO A U.S. PORT OR PLACE:

  - ☐ VESSEL INFORMATION
    - Vessel Name & IMO Number
    - Owner
    - Type
    - Gross Tonnage
    - Call Sign
    - Flag

  - ☐ VOYAGE INFORMATION
    - Arrival Port & Arrival Date
    - Last Port
    - Country of Last Port
    - Next Port
    - Country of Next Port

  - ☐ TOTAL BALLAST WATER INFORMATION
    - Total Ballast Water on Board
      - Volume
      - Units
      - Number of Tanks in Ballast
    - Total Ballast Water Capacity
      - Volume
      - Units
      - Total Number of Tanks on the Ship

  - ☐ BALLAST WATER MANAGEMENT
    - Total number of tanks/holds to be discharged
    - Total number of tanks that underwent management
    - Management Methods Specified (exchange, retention)

  - ☐ INFORMATION ON TANKS TO BE DISCHARGED
    - Tanks/Holds Discharged or to be Discharged in U.S.
    - Origin of Ballast Water Discharged or to be Discharged (date, location, vol., temp.)
    - BWM: date, location, volume, method, thoroughness (percent exchange), and sea height at time of BWM.
    - Ballast Water Discharges (date, location, vol., salinity)

  - ☐ FACILITY LOCATION OF SEDIMENT DISCHARGES

  - ☐ RESPONSIBLE OFFICERS SIGNATURE

- ☐ DO RECORDS APPEAR CONSISTENT WITH PLANNED CARGO, FUEL, STABILITY AND DRAFT OPERATIONS AS DESCRIBED BY THE MASTER, CHIEF MATE OR CHIEF ENGINEER? Y / N

NOTE: Ballast discharge in U.S. waters may be likely when:
A) A vessel is taking on more cargo or fuel in U.S. waters than is being offloaded or consumed; or
B) A vessel has to decrease draft in order to transit through any U.S. waterway.
For all ballast discharges in U.S. waters, equivalent discharge entries must be included in the onboard BWM records.

If noncompliance is suspected, or the vessel is on a BWM lookout list, conduct an Expanded Examination of BWM Records

Expanded Examination of BWM Records:

An expanded records check should be conducted whenever a vessel is suspected of being noncompliant with the mandatory BWM reporting or recordkeeping requirements or is listed on a BWM lookout list.

BWM REPORTS:

For a vessel suspected of being noncompliant with the reporting requirements, determine if any evidence provided by the master, owner, operator or person-in charge, reasonably disputes the reasons for the suspected noncompliance and exonerates the vessel from penalties. Such reasonable evidence may include copies of the properly completed *Ballast Water Reporting Forms* with: return receipts, e-mail replies, fax transmittals, or return receipt cards.

- If reasonable evidence cannot be provided, enforcement actions may follow.
- If reasonable evidence is provided, ensure the evidence covers all arrivals where reports were required.

BWM RECORDS

For a vessel suspected of being noncompliant with the recordkeeping requirements, determine if operations are consistent with the BWM records. If there is reasonable evidence that the vessel has or will be discharging ballast in U.S. waters, the BWM records should have corresponding discharge entries.

The following can assist in this determination:

- Interview the master, chief mate, chief engineer and/or other crewmembers and require each to demonstrate how the vessel's ballast operations are consistent with cargo, transit, and fueling operations.
- From the supporting vessel documentation and interviews, determine if cargo will be loaded or fuel will be bunkered in U.S. waters, and whether this requires deballasting.
- From the supporting vessel documentation and interviews, determine if the vessel will be restricted in draft during any transit in U.S. waters and whether this requires deballasting.
- From the supporting vessel documentation and interviews, determine if the planned ballasting operations are consistent with the vessel's stability requirements.

If the vessel is found to be noncompliant, notify the master about each deficiency, initiate enforcement action, and gather copies of supporting evidence.

If at anytime, deliberate deception, or willful violation of the BWM recordkeeping requirements is suspected, request assistance from a qualified Coast Guard Investigating Officer.

ONBOARD EVIDENCE SOURCES

The following sources may provide supporting evidence when checking the accuracy of ballast water management records:

- Ballast Water Management Plan
- 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
- Stability and Trim Booklets
- 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
- Coast Pilots for control depths

BALLAST WATER MANAGEMENT (BWM)

ENFORCEMENT GUIDANCE

Enclosure 3 - BWM ENFORCEMENT GUIDANCE

Introduction…….. 1

A. BWM Enforcement Options……. 1

1. Verbal Education……. 1
2. Letter of Warning (LOW)……...……. 1
3. Notice of Violation (NOV)…….……. 2
4. Administrative Civil Penalty……..……. 2
5. Captain of the Port Orders……... 2
6. Suspension and Revocation ……...……. 3
7. Revocation of Clearance and Customs Holds ……...……. 3
8. Criminal Proceedings……..……. 3

Appendix A to Enclosure (3)……...……..…….. A-1

Sample Letter of Warning in Lieu of Civil Penalty…….…..……. A-3

Sample Letter of Warning in Lieu of Suspension and Revocation Proceedings…. A-4

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).

LOWs are appropriate for minor violations that are corrected immediately by conscientious operators. Generally, for minor administrative deficiencies (a missing BWM record entry or incomplete information in BWM record) the preferred enforcement action may be to issue a warning, as appropriate (see Appendix A to Encl. (3)). The operator should also be issued a requirement to correct the deficiency prior to the next U.S. port visit or BWM operation in U.S. waters. These vessels will be allowed to complete any ongoing BWM operation, however, a deficiency should be noted in MISLE.

If the Coast Guard COTP or OCMI determines that there is evidence of a violation of the mandatory BWM requirements, and a vessel history search does not indicate prior violations for the same statute, a LOW may be issued to the master, owner, operator, agent or person-in charge of the vessel. Documentation of this action must be completed in the MISLE *Enforcement Activity* in accordance with the *MISLE Investigation Enforcement Process Guide*.[1]

[1] MISLE Investigation Enforcement Process Guide, Version 05-2002, Internet, available at: http://mislenet.osc.uscg.mil/user_guides.aspx

To facilitate LOW issuance, COTPs and OCMIs are recommended to develop template LOWs, based on the format shown in Appendix A to Encl (3), for MI's and BOs to carry during BWM examinations.

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.

Upon updating the *Notice of Violation User's Guide* (COMDT INST M5582.1A) to include violations of the applicable BWM regulations, an NOV may be issued to the master, owner, operator, agent or person-in charge of a vessel if it is listed on a BWM lookout list issued from Coast Guard Headquarters for failing to submit complete and accurate BWM reports, or if the COTP or OCMI determines that there is evidence of a violation of any applicable BWM requirements.

Documentation of such action must be completed in the MISLE enforcement activity in accordance with the *MISLE Investigation 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 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 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.

[This Page Intentionally Left Blank]

Appendix A – Sample Letters of Warning

[This Page Intentionally Left Blank]

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

Captain Joe Somebody
57 High Street
Oakland, CA 94501

Subject: WARNING IN LIEU OF CIVIL PENALTY

Dear Captain 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 by indicating your choice below. Sign and date below and return a copy to the address above within 30 days of 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

****

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

Mr. Joe Somebody
57 High Street
Oakland, CA 94501

Subject: WARNING IN LIEU OF SUSPENSION AND REVOCATION PROCEEDINGS

Dear Mr. 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 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 by indicating your choice below. Sign and date below and return a copy to the address above within 30 days of 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

****

I hereby accept / decline the above-mentioned warning.

_____ _____
Name Date