PROPOSED REGULATORY TEXT

TITLE 2. ADMINISTRATION
DIVISION 3. STATE PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION
ARTICLE 4.7. PERFORMANCE STANDARDS AND COMPLIANCE ASSESSMENT FOR THE DISCHARGE OF BALLAST WATER FOR VESSELS OPERATING IN CALIFORNIA WATERS

Staff has illustrated changes to the original text in the following manner:

- *Originally proposed language is underlined; deletions from the original text are shown in strikeout using a "-".*
- *Modified proposed additions after comment consideration are double underlined; modified proposed deletions after comment consideration are shown in double strikethrough.*

California State Lands Commission staff proposes to amend Article 4.7 of Chapter 1, Division 3 of Title 2 of the California Code of Regulations, to read as follows:

Section 2292 Definitions

~~Unless the context otherwise requires, the~~The following definitions shall govern the construction of this Article:

(a) "Ballast Water Capacity" means the total volumetric capacity of any tanks, spaces, or compartments on a vessel used for carrying, loading or discharging ballast water, including any multi-use tank, space or compartment designed to allow carriage of ballast water.

(b) "Ballast Water Sample" means a unit of ballast water that may be collected for compliance assessment or research purposes.

(c) "Ballast Water Treatment System," also referred to as a "Ballast Water Management System," means any system that processes ballast water to remove, kill, or render nonviable organisms in ballast water prior to discharge or to avoid the uptake or discharge of organisms.

(d) "Colony Forming Unit" means a measure of viable bacteria in a sample.

(e) "Commission" means the California State Lands Commission.

(f) "Detailed Analysis" means a direct measurement of the organism's concentration in a representative sample to assess compliance with the discharge standards.

(g) "Exchange" means to replace the water in a ballast tank using either of the following methods:

(1) "Flow through exchange," which means to flush out ballast water by pumping three full volumes of near-coastal waters through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) "Empty/refill exchange," which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with near-coastal waters.

~~(g)~~(h) "Functionality Monitoring" means monitoring of the applicable operational performance parameters to verify that the ballast water treatment system is operating according to the manufacturers' specifications.

~~(h)~~(i) "Indicative Analysis" means a rapid preliminary assessment of the organism concentration in a representative sample of the ballast water volume of interest using biological, chemical, or physical parameters.

(j) "Land" has the same meaning as "land" in Public Resources Code section 71200(i).

~~(i)~~(k) "mL" means milliliter.

(l) "Near-coastal waters" means waters that are more than 50 nautical miles from land and at least 200 meters (656 feet, 109 fathoms) deep.

(m) "Port" has the same meaning as "port" in Public Resources Code section 71200(n).

~~(j)~~(n) "Public Water System" is defined the same as in Title 40 of the Code of Federal Regulations, section 141.2 (7-1-20 Edition), which is hereby incorporated by reference.

~~(k)~~(o) "Sampling Port" means the equipment installed in the ballast water piping through which representative samples of the ballast water being discharged are extracted.

~~(l)~~(p) "System Design Limitations" or "SDLs" are the physical or operational parameters important to the proper operation of the ballast water treatment system and designed to achieve the discharge performance standards (for example, minimum and maximum flow rates, time between ballast uptake and discharge, water quality limitations, operating environmental conditions, filter pressure, or ultraviolet transmittance).

~~(m)~~(q) “Vessel” has the same meaning as in Section 71200, Public Resources Code, subdivision (r).

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71200, 71201.7, 71204, 71205.3 and 71206, Public Resources Code.

Section 2293. Performance Standards for Ballast Water Discharges.

The provisions under this Section apply only to vessels that discharge ballast water in California waters.

(a) Federal Performance Standards for Ballast Water Discharges.

(1) Notwithstanding section 2296, the owner or operator of a vessel shall not discharge ballast water in California waters unless the ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, are met.

(2) The performance standards in Section 2293, subdivision (a)(1), must be met according to the implementation schedule in Section 151.2035(b) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, unless either of the follow conditions are met:

(A) The owner or operator of a vessel has been granted an extension to the vessel's compliance date by the United States Coast Guard pursuant to Section 151.2036 of Title 33 of the Code of Federal Regulations, or as that regulation may be amended; or

(B) The vessel is using water from a Public Water System as ballast water pursuant to Section 2296.

(b) ~~This subdivision applies only to vessels arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento.~~Salinity-based Ballast Water Management Requirements.

(1) ~~The master, operator, or person in charge of a vessel subject to this subdivision must measure and record the salinity and maintain a record on board the vessel of the salinity measurements for:~~This subdivision applies only to vessels arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento; and either

(A) ~~Any ballast water source for each ballast water tank.~~With a recorded ballast water source salinity of less than 18 parts per thousand; or

(B) ~~Discharged ballast water for each ballast water tank.~~Without a recorded ballast water source salinity.

(2) The master, operator, or person in charge of a vessel ~~with ballast water sourced from waters with a measured salinity of less than 18 parts per~~

~~thousands~~subject to this subdivision must, in addition to meeting the ballast water discharge performance standards incorporated in subdivision (a):

(A) Conduct a ballast water exchange in near-coastal waters; and

(B) ~~Ensure that the~~ Upon inspection, have a salinity of discharged ballast water ~~is~~ equal to or greater than 30 parts per thousand.

~~(b)~~(c) Interim California Performance Standards for Ballast Water Discharges.

No later than January 1, 2030, the owner or operator of a vessel must comply with the interim California performance standards for the discharge of ballast water. The interim performance standards for the discharge of ballast water in California require that ballast water discharged will contain:

(1) No detectable living organisms that are greater than or equal to 50 micrometers in minimum dimension;

(2) Fewer than 0.01 living organisms per mL that are less than 50 micrometers in minimum dimension and greater than or equal to 10 micrometers in minimum dimension;

(3) For living organisms that are less than 10 micrometers in minimum dimension:

(A) fewer than 1,000 bacteria per 100 mL;

(B) fewer than 10,000 viruses per 100 mL;

(C) concentrations of microbes that are less than:

1. 126 colony forming units per 100 mL of *Escherichia coli*;

2. 33 colony forming units per 100 mL of Intestinal enterococci; and

3. 1 colony forming unit per 100 mL or 1 colony forming unit per gram of wet weight of zoological samples of Toxicogenic *Vibrio cholerae* (serotypes O1 and O139).

~~(c)~~(d) Final California Performance Standards for Ballast Water Discharges.

No later than January 1, 2040, the owner or operator of a vessel to which this Article applies, must implement and meet the final performance standards for the discharge of ballast water. The final performance standards for the discharge of ballast water in California waters require that the ballast water discharged must have zero detectable living organisms for all organism size classes.

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71201.7 and 71205.3, Public Resources Code.