

Version No. 001
**Environment Protection (Ships' Ballast
Water) Regulations 2006**

S.R. No. 59/2006

Version as at 1 July 2006

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1. Objective	1
2. Authorising provision	1
3. Commencement	1
4. Definitions	1
PART 2—APPLICATION	4
5. Application of the Regulations	4
PART 3—REPORTING	5
6. Victorian ballast water reporting requirements	5
PART 4—DISCHARGE	6
7. Discharge of ballast water into Victorian State Waters	6
PART 5—COST RECOVERY	8
8. Fees payable	8
9. Annual fee agreement for ships that are subject to a Victorian domestic ballast water accreditation agreement	8
10. Fee collection	9
11. Refund of monies paid	10

<i>Regulation</i>	<i>Page</i>
ENDNOTES	11
1. General Information	11
2. Table of Amendments	12
3. Explanatory Details	13

Version No. 001
**Environment Protection (Ships' Ballast
Water) Regulations 2006**

S.R. No. 59/2006

Version as at 1 July 2006

PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to support the implementation of the Waste management policy (Ships' Ballast Water) by prescribing—

- (a) the administrative requirements and services necessary to protect the beneficial uses of Victorian State waters; and
- (b) the fees for ships visiting a port in Victoria to recover the costs associated with delivering these services.

2. Authorising provision

These Regulations are made under section 71 of the **Environment Protection Act 1970**.

3. Commencement

These Regulations come into operation on 1 July 2006.

4. Definitions

In these Regulations—

"annual fee agreement" means an agreement between the Authority and a ship's owner made under regulation 9;

"Authority" has the same meaning as it has in the **Environment Protection Act 1970**;

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 1—Preliminary

r. 4

"ballast water" means water, including any entrained marine organisms and other sediments and solids, used to alter the draught, trim, manoeuvrability and stability of ships;

Note: Ballast water is an industrial waste in Victoria.

"ballast water log" means a form in the format prescribed by the protocol;

"ballast water report form" means a form in the format prescribed by the protocol;

"domestic ballast water" means ballast water that originates from an Australian port or within the territorial seas of Australia;

"domestic ballast water accreditation agreement" means an agreement entered into between a ship owner and the Authority as provided by the policy;

"high-risk domestic ballast water" means domestic ballast water that if discharged is considered by the Authority to pose a high risk of introducing a marine pest to the receiving waters;

"master" has the same meaning as it has in the **Marine Act 1988**;

"owner" has the same meaning as it has in the **Marine Act 1988**;

"port" has the same meaning as it has in the **Marine Act 1988**;

"State" means the State of Victoria;

"the Act" means the **Environment Protection Act 1970**;

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 1—Preliminary

r. 4

"the Policy" means the Waste management policy (Ships' Ballast Water), published by the Authority in Government Gazette S 100 on 27 April 2004 and as in force from time to time;

"the protocol" means the "Protocol for Environmental Management Domestic Ballast Management in Victorian State Waters", publication 949 published by the Authority in May 2004 and as in force from time to time.

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 2—Application

r. 5

PART 2—APPLICATION

5. Application of the Regulations

- (1) Subject to sub-regulation (2), these Regulations apply only to ships that have capacity to carry ballast water.
 - (2) These Regulations do not apply to a ship which—
 - (a) utilises permanent fresh water ballast solely to alter the draught, trim, manoeuvrability and stability of the ship; and
 - (b) does not take up or discharge marine waters as part of its operation.
-

PART 3—REPORTING

6. Victorian ballast water reporting requirements

- (1) The owner and master of any ship visiting a port must ensure that a completed ballast water report form is provided to the Authority in accordance with the requirements of the protocol.

Penalty: 20 penalty units.

- (2) The owner and master of a ship visiting a port and carrying domestic ballast water must ensure that a completed ballast water log is provided to the Authority in accordance with the requirements of the protocol.

Penalty: 20 penalty units.

- (3) For the purposes of sub-regulations (1) and (2), the Authority must ensure that the ballast water report form and the ballast water log are available in both paper and electronic forms.

- (4) In relation to a ship, the Authority may exempt a ship's owner and master from the need to comply with the reporting requirements of sub-regulations (1) and (2) if that ship is the subject of a current domestic ballast water accreditation agreement.
-

PART 4—DISCHARGE

7. Discharge of ballast water into Victorian State Waters

- (1) The owner and master of a ship must ensure there is no discharge of domestic ballast water in Victorian State waters unless written authorisation to discharge has been received from the Authority.

Penalty: 50 penalty units.

- (2) In making a decision to authorise the discharge of domestic ballast water under sub-regulation (1) the Authority may have regard to, but is not limited by, the following—
- (a) the satisfactory completion of the forms submitted under regulation 6;
 - (b) the Authority's assessment of the information provided in accordance with regulation 6;
 - (c) whether the ship is carrying high-risk domestic ballast water;
 - (d) the general level of risk posed to the environment by the domestic ballast water;
 - (e) if any compliance monitoring or inspections have been conducted by or on behalf of the Authority, the outcomes of that compliance monitoring or inspection;
 - (f) if the ship is subject to a domestic ballast water accreditation agreement, the terms of that agreement;
 - (g) if an Environment Improvement Plan is in force in accordance with the Policy, the terms of that Environment Improvement Plan;
-

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 4—Discharge

r. 7

(h) any other safety or environmental issues that
the Authority considers relevant.

PART 5—COST RECOVERY

8. Fees payable

- (1) Subject to regulation 9, the following fees, payable by or on behalf of the owner of a ship, are prescribed.

TABLE 1

<i>Column 1</i>	<i>Column 2</i>
<i>Classification of ship</i>	<i>Fee units per ship per visit to a port</i>
Ships which are the subject of a current Victorian domestic ballast water accreditation agreement	10
All other ships	21

- (2) An owner of a ship who fails to pay the fee prescribed in sub-regulation (1) within 30 days of issue of final notice is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

9. Annual fee agreement for ships that are subject to a Victorian domestic ballast water accreditation agreement

- (1) This regulation applies to ships that are the subject of a current Victorian domestic ballast water accreditation agreement.
- (2) The ship's owner may apply to the Authority to pay a fee of 200 fee units to the Authority to enter into an annual fee agreement for the ship.
- (3) Subject to sub-regulation (4), an annual fee agreement operates for a 12 month period following receipt of payment by the Authority under sub-regulation (2).

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 5—Cost Recovery

r. 10

-
- (4) An annual fee agreement may provide for the payment of the fee under sub-regulation (2) in 4 quarterly instalments payable in advance as specified in the agreement.
 - (5) If sub-regulation (4) applies, the annual fee agreement operates for a 12 months period following receipt of the first quarterly payment but is terminated if a further quarterly payment is not received in accordance with sub-regulation (4).
 - (6) If a ship's owner has an annual fee agreement regulation 8 does not apply to the ship for the duration of the annual fee agreement.
 - (7) An application under sub-regulation (2) must be made in accordance with the requirements of the protocol.
 - (8) Despite sub-regulation (6), if the Authority revokes a Victorian domestic ballast water accreditation agreement for a ship—
 - (a) the annual fee agreement ceases to apply;
and
 - (b) fees specified in regulation 8 will apply from the date of the revocation.

10. Fee collection

- (1) The fee prescribed by regulation 8 or 9 is payable by or on behalf of the owner of a ship to the Authority.
 - (2) The Authority may authorise a third party in writing to collect the fees prescribed by these Regulations on its behalf.
 - (3) If a third party has been authorised in accordance with sub-regulation (2), the prescribed fee is payable by or on behalf of the owner of a ship to the relevant third party.
-

*Environment Protection (Ships' Ballast Water) Regulations
2006*

S.R. No. 59/2006

Part 5—Cost Recovery

r. 11

11. Refund of monies paid

The Authority may refund all, or a relevant portion of, monies paid in accordance with these Regulations if—

- (a) the monies paid are more than the amount that is required; or
- (b) a fee agreement has been entered into in accordance with regulation 9 and—
 - (i) the Victorian domestic ballast water accreditation agreement of the ship is revoked; or
 - (ii) the ship is sold during the term of the annual fee agreement; or
 - (iii) the ship is not operational in Victoria for a minimum period of one month.

*Environment Protection (Ships' Ballast Water) Regulations
2006
S.R. No. 59/2006*

Endnotes

ENDNOTES

1. General Information

The Environment Protection (Ships' Ballast Water) Regulations 2006, S.R. No. 59/2006 were made on 30 May 2006 by the Governor in Council under section 71 of the **Environment Protection Act 1970**, No. 8056/1970 and came into operation on 1 July 2006: regulation 3.

The Environment Protection (Ships' Ballast Water) Regulations 2006 will sunset 10 years after the day of making on 30 May 2016 (see section 5 of the **Subordinate Legislation Act 1994**).

*Environment Protection (Ships' Ballast Water) Regulations
2006
S.R. No. 59/2006*

Endnotes

2. Table of Amendments

There are no amendments made to the Environment Protection (Ships' Ballast Water) Regulations 2006 by statutory rules, subordinate instruments and Acts.

*Environment Protection (Ships' Ballast Water) Regulations
2006
S.R. No. 59/2006*

Endnotes

3. Explanatory Details

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulations 6 and 9	Protocol for Environmental Management Domestic Ballast Management in Victorian State Waters, publication 949 published by the Authority in May 2004 and as in force from time to time.	The whole
Regulation 7	Waste management policy (Ships' Ballast Water) published by the Authority in Government Gazette S 100 on 27 April 2004 and as in force from time to time.	The whole

Fee Units

These Regulations provide for fees by reference to fee units established under the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2006, is \$10.75. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.