

Title 2, Division 3, Chapter 1,

Article 4.6 Ballast Water Regulations for Vessels Arriving at California Ports or Places after Departing from Ports or Places within the Pacific Coast Region

Section 2280. Purpose, Applicability, and Date of Implementation.

- (a) The purpose of the regulations in Title 2, Division 3, Chapter 1, Article 4.6 of the California Code of Regulations is to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable.
- (b) The provisions of Article 4.6 apply to all vessels arriving at a California port or place carrying ballast water from another port or place within the Pacific Coast Region. For the purposes of Article 4.6 all ports and places in the San Francisco Bay area east of the Golden Gate bridge including the Ports of Stockton and Sacramento, shall be construed as the same California port or place; and the Ports of Los Angeles, Long Beach and the El Segundo marine terminal shall be construed as the same California port or place.
- (c) The provisions of Article 4.6 do not apply to vessels that arrive at a California port or place after departing from ports or places outside of the Pacific Coast Region.
- (d) The provisions of these regulations become effective 180 days after they have been filed with the Secretary of State.

Authority: Sections 71201.7 and 71204.5, Public Resources Code

Reference: Sections 71201 and 71204.5, Public Resources Code.

Section 2281. Safety of Ballasting Operations.

- (a) The master, operator, or person in charge of a vessel is responsible for the safety of the vessel, its crew, and its passengers.
- (b) (1) The master, operator, or person in charge of a vessel is not required by this provision to conduct a ballast water management practice, including exchange, if the master determines that the practice would threaten the safety of the vessel, its crew, or its passengers because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions.

- (2) If a determination described in subsection (b)(1) is made, the master, operator, or person in charge of the vessel shall take all feasible measures, based on the best available technologies economically achievable, that do not compromise the safety of the vessel to minimize the discharge of ballast water containing nonindigenous species into the waters of the state, or waters that may impact the waters of the state.
- (c) Nothing in this provision relieves the master, operator, or person in charge of a vessel of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers, or any other responsibility.

Authority: Sections 71201.7 and 71204.5, Public Resources Code

Reference: Sections 71203, 71204.5, Public Resources Code.

Section 2282. Definitions.

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

- (a) "Coastal waters" means estuarine and ocean waters within 200 nautical miles of land or less than 2,000 meters (6,560 feet, 1,093 fathoms) deep, and rivers, lakes, or other water bodies navigably connected to the ocean.
- (b) "Commission" means the California State Lands Commission.
- (c) "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 water 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.
- (f) "Near-coastal waters" means waters that are more than 50 nautical miles from land and at least 200 meters (656 feet, 109 fathoms) deep.

(g) "Pacific Coast Region" means all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California.

(h) "Vessel" means a vessel of 300 gross registered tons or more.

Authority: Sections 71201.7 and 71204.5, Public Resources Code

Reference: Sections 71200 (e), (j) and (n), 71201, 71204 and 71204.5, Public Resources Code.

Section 2283. Alternatives.

(a) Petitions for Alternatives.

(1) Any person subject to these regulations may submit a petition to the Commission for alternatives to the requirements of Article 4.6 as applied to the petitioner.

(2) All petitions for alternatives must be submitted in writing. A petition may be in any form, but it must contain all data and information necessary to evaluate its merits in order to fulfill the purposes of these regulations.

(b) Approval of Alternatives.

(1) The Commission may approve any proposed alternatives to the requirements of Article 4.6 if it determines that the proposed alternatives will fulfill the purpose of these regulations as outlined in subsection (a) of Section 2280 of this Article.

(2) If the Commission approves any proposed alternatives under this section, a letter of approval shall be issued to the petitioner setting forth the findings upon which the approval is based.

(3) The Commission may withdraw the letter of approval of any alternative requirements at any time if it finds that the person or persons subject to these regulations have not complied with the approved alternative requirements.

(4) Withdrawal of a letter of approval under this section shall be effective upon receipt by the petitioner of written notification of the withdrawal from the Commission.

Authority: Sections 71201.7 and 71204.5, Public Resources Code

Reference: Sections 71201 and 71204.5, Public Resources Code

Section 2284. Ballast Water Management Requirements

- (a) The master, operator, or person in charge of a vessel that arrives at a California port or place from another port or place within the Pacific Coast Region shall employ at least one of the following ballast water management practices:
 - (1) Exchange the vessel's ballast water in near-coastal waters, before entering the waters of the state, if that ballast water has been taken on in a port or place within the Pacific Coast region.
 - (2) Retain all ballast water on board the vessel.
 - (3) Use an alternative, environmentally sound method of ballast water management that, before the vessel begins the voyage, has been approved by the commission or the United States Coast Guard as being at least as effective as exchange, using mid-ocean waters, in removing or killing nonindigenous species.
 - (4) Discharge the ballast water to a reception facility approved by the commission.
 - (5) Under extraordinary circumstances where compliance with subsections (a)(1) through (a)(4) of this section is not practicable, perform a ballast water exchange within an area agreed to by the commission in consultation with the United States Coast Guard at or before the time of the request.

Authority: Sections 71201.7 and 71204.5, Public Resources Code

Reference: Sections 71200, 71204 and 71204.5, Public Resources Code