



National Sea Grant Law Center

Announcement of Legislative Development

October 2006

***** California Enacts Law to Protect Coastline from Ship Discharges *****

On September 18, 2006, California enacted the Coastal Ecosystem Protection Act, Senate Bill 497, which imposes stringent ballast water discharge standards for ships traveling in state waters. Ballast water is necessary for many functions related to trip, stability, maneuverability, and propulsion of large seagoing vessels. As ballast water is transferred from source to destination ports, so are the many organisms taken into its tanks along with the port water. Senate Bill 497 requires the California State Lands Commission (CSLC) to adopt standards to regulate those discharges. In general, the California Legislature has adopted the recommendations contained in a CSLC report released in January 2006. The CSLC recommended performance standards with interim goals and a final goal of achieving zero detectable marine organisms in discharged ballast water by 2020; however, the CSLC has recognized that there is no technology currently available to meet this goal. Senate Bill 497 also incorporates portions of the California Clean Coast Act of 2005 (CCCA), which addresses the release of prohibited substances, including gray and black water, from oceangoing vessels.

Experimental Ballast Water Treatment Systems

Senate Bill 497 amends the California Public Resources Code § 71204.7 to require the CSLC to consult with the U.S. Coast Guard to adopt regulations regarding the evaluation and approval of experimental ballast water treatment systems. A ship using an experimental ballast water treatment system approved by the CSLC on or before January 1, 2008, will be in compliance with the CSLC standards for five years from the date of the application of interim performance standards. If a ship using experimental treatment systems does not comply with the conditions in its approved permit or if there are safety issues with the experimental system, the CSLC may rescind approval. The CSLC is required to distribute information to the public about the effectiveness of the experimental treatment systems.

Adoption of Interim and Final Performance Standards

Senate Bill 497 adds § 71205.3 to the Public Resources Code to require ships to conform to interim performance standards and the implementation schedule that were recommended by the CSLC in January 2006. The CSLC, in conjunction with the Coast Guard and an advisory panel, is required to submit a review of the current technologies for ballast water treatment systems, stating whether the technologies are available to meet the final performance standards, and, if not, it must include an assessment of why the technologies are unavailable. By 2020, ships must meet the final performance standards approved by the CSLC, which require zero detectable marine organisms in discharged ballast water.

Section 71207 of the Public Resources Code is amended to allow state agencies to enforce the Act, as long as the total fines imposed by those entities do not exceed a specified amount. State agencies may not impose different requirements, unless that action is mandated by federal law.

Biological Monitoring and Regulation Assessment

Senate Bill 497 amends § 71211 of the Public Resources Code to require the California Department of Fish and Game, along with the Coast Guard and the CSLC, to collect data concerning the location of nonindigenous species. The report must be made available to the public on or before January 1, 2007 and is to be updated annually. The department must use this data to assess the efficacy of the ballast water discharge regulations in the Act and report its findings to the state legislature and the general public on or before January 1, 2009, with an assessment report provided to the legislature and the public every three years after that date.

Penalties for Non-compliance

A person who fails to comply with this act will be subject to an administrative civil penalty. Senate Bill 497 amends § 71216 to increase the penalty for the violation of the act to not more than \$27,500. Each day of a continuing violation will constitute a separate violation. The same penalties apply to those failing to comply with the reporting requirements of the Act or falsifying a ballast water control report form.

Adoption of Federal Regulations

Section 71271 of the Public Resources Code requires the CSLC to submit a report to the legislature if federal programs or regulations similar to this Act are developed. The report must compare the federal and state programs and give a recommendation for repeal of the Act if it finds that the federal program is equally or more effective at controlling nonindigenous species. Senate Bill 497 removes the January 1, 2010 sunset date.

Release of Prohibited Substances

Senate Bill 497 amends § 72421 to require the owner or operator of a ship releasing gray and black water in violation of the Act to notify the Office of Emergency Services no longer than 30 minutes after discovery of a release of prohibited water. The Office of Emergency Services must notify the State Water Resources Control Board and the Department of Fish and Game within 30 minutes of receiving notification of the emergency.

Sections 72423 and 72440 incorporate portions of the CCCA. The CCCA, which regulates gray and black water discharges from certain oceangoing ships in state waters, is administered by the State Water Resources Control Board. A copy of the CCCA is available at http://info.sen.ca.gov/pub/bill/sen/sb_0751-0800/sb_771_bill_20050901_amended_asm.html.

How can I find a copy of the Coastal Ecosystems Protection Act?

A copy of this Act is available at http://www.leginfo.ca.gov/pub/bill/sen/sb_0451-0500/sb_497_bill_20060918_chaptered.pdf . The CSLC's January 2006 report as well as additional information is available on the CSLC's website at <http://www.slc.ca.gov> .

Provided by:

National Sea Grant Law Center

University Of Mississippi
Kinard Hall, Wing E – Room 256
University, MS 38655

Phone: (662) 915-7775

Email: sealaw@olemiss.edu

<http://www.olemiss.edu/orgs/SGLC>

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