



California adopts federal ballast water discharge standards

Until such time as technological advances enable compliance with California's stringent ballast water discharge performance standards, vessels discharging ballast water into Californian waters must use a ballast water treatment system that has been approved by the US Coast Guard.

Published 11 November 2021

The information provided in this article is intended for general information only. While every effort has been made to ensure the accuracy of the information at the time of publication, no warranty or representation is made regarding its completeness or timeliness. The content in this article does not constitute professional advice, and any reliance on such information is strictly at your own risk. Gard AS, including its affiliated companies, agents and employees, shall not be held liable for any loss, expense, or damage of any kind whatsoever arising from reliance on the information provided, irrespective of whether it is sourced from Gard AS, its shareholders, correspondents, or other contributors.

The state of California is known for its enforcement of stringent environmental regulations, many of which affect visiting ships. This year, the State has introduced a new [at-berth emission regulation](#) that aims to further reduce the public's exposure to air pollution generated by vessels berthed at its busiest ports, and greatly enhanced the [criminal penalties for oil spill related offences](#) in its waters.

Under its [Marine Invasive Species Program \(MISP\)](#), California has established [biofouling management](#) and ballast water discharge standards that are more stringent than those enforced under the US federal regulations and IMO's international maritime conventions. However, California has yet to implement its ballast water discharge performance standards - primarily because the standards are still technically unachievable.

It is also worth noting that, once fully implemented, the new [Vessel Incidental Discharge Act \(VIDA\)](#) may prevent State authorities from implementing State-specific management requirements or standards for vessel discharges, including ballast water, that are stricter than the federal standards. For now, when calling at ports in the US or sailing through US waters, it is always important to bear in mind that State laws may be in force in addition to US federal law and that State laws can be more stringent than those set by the national government and can carry different penalties.

California's new ballast water management requirements

As a temporary measure until technological advances enable compliance with the State's more stringent ballast water discharge performance standards, the California State Lands Commission (SLC) has aligned its discharge requirements for vessels arriving at California ports with those set by the US Coast Guard (USCG). The SLC has jurisdiction over vessels that are 300 gross registered tons and above that carry or are capable of carrying ballast water.

California's ballast water management requirements are stipulated under Article 4.7 of the California Code of Regulations and the [amended Article 4.7](#), which becomes effective on **1 January 2022**, includes the following main changes:

- Incorporates the [federal ballast water discharge standards](#) set forth in section 151.2030(a) of Title 33 of the Code of Federal Regulations (CFR), and the corresponding [implementation schedule](#) outlined in 33 CFR 151.2035(b), into California law.
- Delays the compliance dates for the more stringent interim and final California ballast water discharge performance standards to 2030 and 2040, respectively, due to a lack of available ballast water treatment technologies to enable vessels to meet the California standards at this time.

The information provided in this article is intended for general information only. While every effort has been made to ensure the accuracy of the information at the time of publication, no warranty or representation is made regarding its completeness or timeliness. The content in this article does not constitute professional advice, and any reliance on such information is strictly at your own risk. Gard AS, including its affiliated companies, agents and employees, shall not be held liable for any loss, expense, or damage of any kind whatsoever arising from reliance on the information provided, irrespective of whether it is sourced from Gard AS, its shareholders, correspondents, or other contributors.

- Establishes operational monitoring and recordkeeping requirements for vessels that use a ballast water treatment system to meet ballast water discharge performance standards.
- Authorizes SLC staff to collect ballast water and sediment samples for research purposes in addition to compliance assessment.

Practical implications

Under the amended Article 4.7, all eligible vessels that are discharging ballast water in California will be required to use one of the following methods to comply:

- a ballast water treatment system that has been type approved by the USCG,
- a ballast water treatment system that has been designated as an Alternating Management System (AMS) by the USCG, or
- use water from a US public water system as ballast water.

The CLSC's [Article 4.7 information sheet](#) further clarifies that any extensions to a vessel's compliance date granted by the USCG will be equally accepted under the Californian ballast water regulations. Under the federal ballast water regulations, the USCG accepts ballast water exchange as an accepted ballast water management method until a vessel reaches its compliance date under the schedule in [33 CFR 151.2035\(b\)](#), or as granted by an extension under [33 CFR 151.2036](#). After a vessel's compliance date, the vessel will be required to use one of the acceptable methods listed above.

Demonstrating compliance

Vessels visiting California ports must ensure that their ballast water treatment system is operated in accordance with the design limitations stipulated by the manufacturer, or set forth in the USCG approval documents, and must maintain the following records onboard:

- Printed or electronic functionality monitoring and calibration records for a minimum of two years.
- Printed or electronic records of any biological monitoring performed, from at least the past two years, including dates of the monitoring, the individuals or entities who performed the tests, and methods used.
- The ballast water treatment system type approval certificate, or AMS designation letter, issued by the USCG, as applicable.

The information provided in this article is intended for general information only. While every effort has been made to ensure the accuracy of the information at the time of publication, no warranty or representation is made regarding its completeness or timeliness. The content in this article does not constitute professional advice, and any reliance on such information is strictly at your own risk. Gard AS, including its affiliated companies, agents and employees, shall not be held liable for any loss, expense, or damage of any kind whatsoever arising from reliance on the information provided, irrespective of whether it is sourced from Gard AS, its shareholders, correspondents, or other contributors.

- Procedures to manage ballast water in case of equipment malfunction.

Upon request, vessels must also ensure that SLC staff are provided access to ballast water tanks and sampling ports, unless access is restricted due to safety concerns.

MISP fee and reporting reminder

We also take this opportunity to remind vessel operators that the SLC requires eligible vessels to:

- Pay a

MISP Fee

for each vessel that arrives at a California port or place from outside of California. A MISP Fee Guide is available at:

<https://www.cdtfa.ca.gov/taxes-and-fees/marine-inv-spec-fee.htm>

- Maintain vessel specific

Ballast Water- and Biofouling Management Plans

(together or separately), as well as appropriate

logs and record books

outlining the corresponding management activities onboard.

- Submit a USCG

Ballast Water Management Report

(OMB No.1625-0069) at least 24 hours prior to arrival at *each port call*

in California. If a vessel's voyage is less than 24 hours, the report shall be submitted upon departure from the last port of call prior to arrival. Note that a report submitted to the

[National Ballast Information Clearinghouse \(NBIC\)](#)

under the US federal regulations is NOT forwarded to California. Submit the report to: Email:

bwform@slc.ca.gov

, Fax: 562.499.6444, or online at:

<https://misp.io>

- Submit a

Marine Invasive Species Program Annual Vessel Reporting Form (AVRF)

once annually

, at least 24 hours in advance of the first arrival at a California port in each calendar year. Submit the AVRF online at:

<https://misp.io>

Additional information about California's ballast water and biofouling

management regulations, including an overview of vessel best management practices to prevent the uptake and release of invasive aquatic species, can be found on the MISP website

The information provided in this article is intended for general information only. While every effort has been made to ensure the accuracy of the information, Gard AS, including its affiliated companies, agents and employees, shall not be held liable for any loss, expense, or damage of any kind whatsoever arising from reliance on the information provided, irrespective of whether it is sourced from Gard AS, its shareholders, correspondents, or other contributors.