

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member O'Donnell

February 27, 2015

An act to amend Sections 71200, 71204.3, 71204.7, 71205, 71205.3, 71206, and 71207 of, and to repeal Sections 71204.2, 71204.5, and 71210.5 of, the Public Resources Code, relating to ballast water management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as introduced, O'Donnell. Ballast water management.

The Marine Invasive Species Act, which generally applies to all vessels carrying or capable of carrying ballast water into the coastal waters of the state after operating outside of the coastal waters of the state and to all ballast water and associated sediments taken on a vessel, imposes specified requirements on the master, owner, operator, or person in charge of one those vessels to minimize the uptake and release of nonindigenous species. The act requires the State Lands Commission to adopt regulations governing ballast water management practices for vessels arriving at a California port from a port outside of the Pacific Coast Region, as defined.

This bill would define the term “port” for purposes of the act to mean any port or place in which a vessel was, is, or will be anchored or moored, or where a vessel will transfer cargo.

The act requires the master, owner, operator, agent, or person in charge of a vessel carrying, or capable of carrying, ballast water, that visits a California port, to provide specified information in electronic or written form to the commission upon the vessel's departure from each California port of call.

This bill would instead require that the above information be provided to the commission at least 24 hours before the vessel arrives to that California port or, if a vessel's voyage is less than 24 hours in total duration, prior to departing the port of departure.

The act requires the commission to adopt specified regulations, on or before January 1, 2008, that require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement an interim performance standard, as prescribed, for specified periods and the final performance standard for the discharge of ballast water of zero detectable for all organism size classes by 2020. The act specifies that if an owner or operator of a vessel applies to install an experimental ballast water treatment system, and the commission approves that application on or before January 1, 2016, the commission shall deem the system to be in compliance with any future treatment standard adopted, for a period not to exceed 5 years from the date that the specified interim performance standards would apply to that vessel.

This bill would instead require the commission to adopt regulations that require, on and after January 1, 2020, an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the performance standard for the discharge of ballast water of zero detectable living organisms for all organism size classes, as described. This bill would also extend to January 1, 2020, the operation of those provisions governing the compliance of experimental ballast water treatment systems with those specified interim performance standards.

The act requires the commission, in coordination with the United States Coast Guard, to take samples of ballast water and sediment from at least 25% of the arriving vessels subject to the act.

This bill would instead require the commission, in consultation with the United States Coast Guard, to take samples and inspect at least 25% of the arriving vessels subject to the act.

The act requires the commission, in consultation with the State Water Resources Control Board, the United States Coast Guard, and a specified technical advisory group, to prepare and submit to the Legislature, on or before January 1, 2006, a specified report on the release of nonindigenous species from vessels.

This bill would delete that obsolete reporting requirement, and make various other changes relating to implementation of the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71200 of the Public Resources Code is
2 amended to read:

3 71200. Unless the context otherwise requires, the following
4 definitions govern the construction of this division:

5 (a) “Ballast tank” means a tank or hold on a vessel used for
6 carrying ballast water, whether or not the tank or hold was designed
7 for that purpose.

8 (b) “Ballast water” means water and suspended matter taken on
9 board a vessel to control or maintain trim, draft, stability, or stresses
10 of the vessel, without regard to the manner in which it is carried.

11 (c) “Biofouling” means the attachment or association of marine
12 organisms to the wetted portion of a vessel or its appurtenances,
13 including, but not limited to, sea chests, propellers, anchors, and
14 associated chains.

15 (d) “Board” means the State Water Resources Control Board.

16 (e) “Coastal waters” means estuarine and ocean waters within
17 200 nautical miles of land or less than 2,000 meters (6,560 feet,
18 1,093 fathoms) deep, and rivers, lakes, or other water bodies
19 navigably connected to the ocean.

20 (f) “Commission” means the State Lands Commission.

21 (g) “EEZ” means exclusive economic zone, which extends from
22 the baseline of the territorial sea of the United States seaward 200
23 nautical miles.

24 (h) “Exchange” means to replace the water in a ballast tank
25 using either of the following methods:

26 (1) “Flow through exchange,” which means to flush out ballast
27 water by pumping three full volumes of mid-ocean water through
28 the tank, continuously displacing water from the tank, to minimize
29 the number of original coastal organisms remaining in the tank.

30 (2) “Empty/refill exchange,” which means to pump out, until
31 the tank is empty or as close to 100 percent empty as is safe to do
32 so, the ballast water taken on in ports, or estuarine or territorial
33 waters, then to refill the tank with mid-ocean waters.

34 (i) “Mid-ocean waters” means waters that are more than 200
35 nautical miles from land and at least 2,000 meters (6,560 feet,
36 1,093 fathoms) deep.

37 (j) “Nonindigenous species” means any species, including, but
38 not limited to, the seeds, eggs, spores, or other biological material

1 capable of reproducing that species, or any other viable biological
2 material that enters an ecosystem beyond its historic range,
3 including any of those organisms transferred from one country
4 into another.

5 (k) "Pacific Coast Region" means all coastal waters on the
6 Pacific Coast of North America east of 154 degrees W longitude
7 and north of 25 degrees N latitude, exclusive of the Gulf of
8 California. The commission may modify these boundaries through
9 regulation if the proponent for the boundary modification presents
10 substantial scientific evidence that the proposed modification is
11 equally or more effective at preventing the introduction of
12 nonindigenous species through vessel vectors as the boundaries
13 described herein.

14 (l) "Person" means an individual, trust, firm, joint stock
15 company, business concern, or corporation, including, but not
16 limited to, a government corporation, partnership, limited liability
17 company, or association. "Person" also means a city, county, city
18 and county, district, commission, the state, or a department, agency,
19 or political subdivision of the state, an interstate body, or the United
20 States and its agencies and instrumentalities, to the extent permitted
21 by law.

22 (m) "Port" means any port or place in which a vessel was, is,
23 or will be anchored or moored, or where a vessel will transfer
24 cargo.

25 ~~(m)~~

26 (n) "Sediments" means matter settled out of ballast water within
27 a vessel.

28 ~~(n)~~

29 (o) "Waters of the state" means surface waters, including saline
30 waters, that are within the boundaries of the state.

31 ~~(o)~~

32 (p) "Wetted portion of a vessel" means all parts of a vessel's
33 hull and structures that are either submerged in water when the
34 vessel is loaded to the deepest permissible legal draft or associated
35 with internal piping structures in contact with water taken onboard.

36 ~~(p)~~

37 (q) "Vessel" means a vessel of 300 gross registered tons or
38 more.

39 ~~(q)~~

1 (r) “Voyage” means any transit by a vessel destined for a
2 California port or place from a port or place outside of the coastal
3 waters of the state.

4 SEC. 2. Section 71204.2 of the Public Resources Code is
5 repealed.

6 ~~71204.2. Prior to and until the date of implementation of the~~
7 ~~regulations described in Section 71204.5, and subject to Section~~
8 ~~71203, the master, operator, or person in charge of a vessel that~~
9 ~~arrives at a California port or place from a port or place outside of~~
10 ~~the EEZ shall employ at least one of the following ballast water~~
11 ~~management practices:~~

12 ~~(a) Exchange the vessel’s ballast water in mid-ocean waters,~~
13 ~~before entering the waters of the state.~~

14 ~~(b) Retain all ballast water on board the vessel.~~

15 ~~(c) (1) Discharge the ballast water at the same location where~~
16 ~~the ballast water originated, provided that the master, operator, or~~
17 ~~person in charge of the vessel can demonstrate that the ballast~~
18 ~~water to be discharged was not mixed with ballast water taken on~~
19 ~~in an area other than mid-ocean waters.~~

20 ~~(2) For purposes of this subdivision, “same location” means an~~
21 ~~area within one nautical mile (6,000 feet) of the berth or within~~
22 ~~the recognized breakwater of a California port or place, at which~~
23 ~~the ballast water to be discharged was loaded.~~

24 ~~(d) Use an alternative, environmentally sound method of ballast~~
25 ~~water management that, before the vessel begins the voyage, has~~
26 ~~been approved by the commission or the United States Coast Guard~~
27 ~~as being at least as effective as exchange, using mid-ocean waters,~~
28 ~~in removing or killing nonindigenous species.~~

29 ~~(e) Discharge the ballast water to a reception facility approved~~
30 ~~by the commission.~~

31 ~~(f) Under extraordinary circumstances, perform a ballast water~~
32 ~~exchange within an area agreed to by the commission in~~
33 ~~consultation with the United States Coast Guard at or before the~~
34 ~~time of the request.~~

35 SEC. 3. Section 71204.3 of the Public Resources Code is
36 amended to read:

37 ~~71204.3. Commencing on~~

38 *71204.3. (a) The commission shall adopt regulations governing*
39 *ballast water management practices for vessels arriving at a*
40 *California port from a port outside of the Pacific Coast Region.*

1 *The commission shall consider vessel design and voyage duration*
 2 *in developing these regulations. The regulations shall be based*
 3 *on the best available technology economically achievable, and*
 4 *shall be designed to protect the waters of the state. The regulations*
 5 *shall include, as appropriate, restrictions or prohibitions on*
 6 *discharge of ballast water containing nonindigenous species into*
 7 *areas in and outside estuaries and into ocean areas shown to have*
 8 *a capacity to retain organisms.*

9 *(b) Subject to Section 71203, the master, operator, or person*
 10 *in charge of a vessel arriving at a California port from a port*
 11 *outside of the Pacific Coast Region shall comply with these*
 12 *regulations.*

13 *(c) Prior to and until the date of implementation of the*
 14 *regulations described in ~~Section 71204.5~~, subdivision (a), and*
 15 *subject to Section 71203, the master, operator, or person in charge*
 16 *of a vessel that arrives at a California port from a port outside of*
 17 *the Pacific Coast Region shall employ at least one of the following*
 18 *ballast water management practices:*

19 ~~(a)~~

20 *(1) Exchange the vessel's ballast water in mid-ocean waters,*
 21 *before entering the coastal waters of the state.*

22 ~~(b)~~

23 *(2) Retain all ballast water on board the vessel.*

24 ~~(c) (1)~~

25 *(3) (A) Discharge the ballast water at the same location where*
 26 *the ballast water originated, provided that the master, operator, or*
 27 *person in charge of the vessel can demonstrate that the ballast*
 28 *water to be discharged was not mixed with ballast water taken on*
 29 *in an area other than mid-ocean waters.*

30 ~~(2)~~

31 *(B) For purposes of this ~~subdivision~~, paragraph, "same location"*
 32 *means an area within one nautical mile (6,000 feet) of the berth*
 33 *or within the recognized breakwater of a California ~~port or place,~~*
 34 *port, at which the ballast water to be discharged was loaded.*

35 ~~(d)~~

36 *(4) Use an alternative, environmentally sound method of ballast*
 37 *water management that, before the vessel begins the voyage, has*
 38 *been approved by the commission or the United States Coast Guard*
 39 *as being at least as effective as exchange, using mid-ocean waters,*
 40 *in removing or killing nonindigenous species.*

1 (e)

2 (5) Discharge the ballast water to a reception facility approved
3 by the commission.

4 (f)

5 (6) Under extraordinary circumstances, perform a ballast water
6 exchange within an area agreed to by the commission in
7 consultation with the United States Coast Guard at or before the
8 time of the request.

9 SEC. 4. Section 71204.5 of the Public Resources Code is
10 repealed.

11 ~~71204.5. (a) On or before January 1, 2005, the commission~~
12 ~~shall adopt regulations governing ballast water management~~
13 ~~practices for vessels arriving at a California port or place from a~~
14 ~~port or place within the Pacific Coast Region. The commission~~
15 ~~shall consider vessel design and voyage duration in developing~~
16 ~~these regulations. The regulations shall be based on the best~~
17 ~~available technology economically achievable and shall be~~
18 ~~designed to protect the waters of the state. The regulations shall~~
19 ~~include, as appropriate, restrictions or prohibitions on discharge~~
20 ~~of ballast water containing nonindigenous species into areas in~~
21 ~~and outside estuaries and into ocean areas shown to have a capacity~~
22 ~~to retain organisms.~~

23 ~~(b) Subject to Section 71203, and commencing no later than~~
24 ~~July 1, 2005, the master, operator, or person in charge of a vessel~~
25 ~~arriving at a California port or place from a port or place within~~
26 ~~the Pacific Coast Region shall comply with these regulations.~~

27 SEC. 5. Section 71204.7 of the Public Resources Code is
28 amended to read:

29 71204.7. (a) On or before July 1, 2005, the commission, in
30 consultation with the United States Coast Guard, shall adopt
31 regulations governing the evaluation and approval of shipboard
32 experimental ballast water treatment systems.

33 (b) The regulations shall include criteria for the development
34 of a formal application package to use those systems.

35 (c) (1) If an owner or operator of a vessel applies to install an
36 experimental ballast water treatment system, and the commission
37 approves that application on or before January 1, ~~2016, 2020~~, the
38 commission shall deem the system to be in compliance with any
39 future treatment standard adopted, for a period not to exceed five
40 years from the date that the interim performance standards adopted

1 pursuant to paragraphs (1) and (2) of subdivision (a) of Section
2 ~~71205.3~~ 71205.3, *as those paragraphs read on December 31, 2015*,
3 would apply to that vessel.

4 (2) The commission may rescind its approval of the system at
5 any time if the commission, in consultation with the board and the
6 United States Coast Guard, and after an opportunity for
7 administrative appeal with the executive officer of the commission,
8 determines that the system has not been operated in accordance
9 with conditions in the agreed upon application package, or that
10 there exists a serious deficiency in performance, human safety, or
11 environmental soundness relative to anticipated performance, or
12 that the applicant has failed to provide the commission with
13 required test results and evaluations.

14 (d) The commission shall not approve an experimental ballast
15 water treatment system unless the owner or operator demonstrates
16 that the system has significant potential to improve upon the ability
17 of existing systems to kill, inactivate, or otherwise remove
18 nonindigenous species from ballast water.

19 (e) The commission shall disseminate to the public the test
20 results and evaluations regarding experimental ballast water
21 treatment systems described in this section.

22 SEC. 6. Section 71205 of the Public Resources Code is
23 amended to read:

24 71205. (a) (1) The master, owner, operator, agent, or person
25 in charge of a vessel carrying, or capable of carrying, ballast water,
26 that visits a California ~~port or place~~, *port*, shall provide the
27 information described in subdivision (c) in electronic or written
28 form to the commission ~~upon the vessel's departure from each~~
29 ~~port or place of call in California~~. *at least 24 hours before the*
30 *vessel arrives at that California port. If a vessel's voyage is less*
31 *than 24 hours in total duration, the vessel shall report the required*
32 *information prior to departing the port of departure.*

33 (2) The information described in subdivision (c) shall be
34 submitted using a form developed by the United States Coast
35 Guard.

36 (b) If the information submitted in accordance with this section
37 changes, an amended form shall be submitted to the commission
38 upon the vessel's departure from each ~~port or place~~ of call in
39 California.

- 1 (c) (1) The master, owner, operator, or person in charge of the
2 vessel shall maintain on board the vessel, in written or electronic
3 form, records that include all of the following information:
- 4 (A) Vessel information, including all of the following:
 - 5 (i) Name.
 - 6 (ii) International Maritime Organization number or official
7 number if the International Maritime Organization number has not
8 been assigned.
 - 9 (iii) Vessel type.
 - 10 (iv) Owner or operator.
 - 11 (v) Gross tonnage.
 - 12 (vi) Call sign.
 - 13 (vii) Port of registry.
 - 14 (B) Voyage information, including the date and port of arrival,
15 vessel agent, last port and country of call, and next port and country
16 of call.
 - 17 (C) Ballast water information, including the total ballast water
18 capacity, total volume of ballast water on board, total number of
19 ballast water tanks, capacity of each ballast water tank, and total
20 number of ballast water tanks in ballast, using measurements in
21 metric tons (MT) and cubic meters (m³).
 - 22 (D) Ballast water management information, including all of the
23 following:
 - 24 (i) The total number of ballast tanks or holds, the contents of
25 which are to be discharged into the waters of the state or to a
26 reception facility.
 - 27 (ii) If an alternative ballast water management method is used,
28 the number of tanks that were managed using an alternative
29 method, as well as the type of method used.
 - 30 (iii) Whether the vessel has a ballast water management plan
31 and International Maritime Organization guidelines on board, and
32 whether the ballast water management plan is used.
 - 33 (iv) Whether the master, operator, or person in charge of the
34 vessel has claimed a safety exemption pursuant to paragraph (1)
35 of subdivision (b) of Section 71203 for the vessel voyage, and the
36 reason for asserting the applicability of that paragraph.
 - 37 (E) Information on ballast water tanks, the contents of which
38 are to be discharged into the waters of the state or to a reception
39 facility, including all of the following:

- 1 (i) The origin of ballast water, including the date and location
2 of intake, volume, and temperature. If a tank has been exchanged,
3 the identity of the loading port of the ballast water that was
4 discharged during the exchange.
- 5 (ii) The date, location, volume, method, thoroughness measured
6 by percentage exchanged if exchange is conducted, and sea height
7 at time of exchange if exchange is conducted, of ballast water
8 exchanged or otherwise managed.
- 9 (iii) The expected date, location, volume, and salinity of ballast
10 water to be discharged into the waters of the state or a reception
11 facility.
- 12 (F) Discharge of sediment and, if sediment is to be discharged
13 within the state, the location of the facility where the disposal will
14 take place.
- 15 (G) Certification of accurate information, that shall include the
16 printed name, title, and signature of the master, owner, operator,
17 person in charge, or responsible officer attesting to the accuracy
18 of the information provided and certifying compliance with the
19 requirements of this division.
- 20 (H) Changes to previously submitted information.
- 21 (2) The master, owner, operator, or person in charge of a vessel
22 subject to this subdivision shall retain a signed copy of the
23 information described in this subdivision on board the vessel for
24 two years.
- 25 (d) The master, owner, operator, or person in charge of a vessel
26 subject to this division shall retain for two years a separate ballast
27 water log outlining ballast water management activities for each
28 ballast water tank on board the vessel and shall make the separate
29 ballast water log available to the commission for inspection and
30 review.
- 31 (e) (1) The master, owner, operator, agent, or person in charge
32 of a vessel subject to this division shall provide the information
33 described in subdivision (f) in electronic or written form to the
34 commission annually upon request of the commission. The master,
35 owner, operator, agent, or person in charge of the vessel shall
36 submit that information within 60 days of receiving a written or
37 electronic request from the commission. For purposes of this
38 paragraph, the reporting shall begin on January 1, 2008, and
39 continue until the date that the regulations described in Section
40 71204.6 are adopted.

1 (2) (A) The information described in subdivision (f) shall be
2 submitted using a form developed by the commission.

3 (B) The master, owner, operator, or person in charge of a vessel
4 subject to this subdivision shall retain a copy of the form submitted
5 pursuant to this subdivision on board the vessel for two years.

6 (f) The master, owner, operator, agent, or person in charge of
7 a vessel subject to this division shall maintain, in written or
8 electronic form, records that include the following information:

9 (1) (A) Date and location of drydocking events.

10 (B) Whether the vessel in general, and the wetted portion of the
11 vessel, sea chests, anchors, and associated chains in particular,
12 were cleaned during a drydocking event.

13 (2) Date and geographic location of all inwater cleaning of the
14 wetted portion of the vessel.

15 (3) (A) Date and geographic location of all antifouling paint
16 applications to the vessel.

17 (B) The manufacturer and brand name of the antifouling paint
18 applied to the vessel.

19 (4) Any additional information required by the commission by
20 rule or regulation.

21 (g) (1) The master, owner, operator, agent, or person in charge
22 of a vessel subject to this division that has a ballast water treatment
23 system installed on board ~~that is used to comply with this division~~
24 ~~and has discharged ballast in waters of the state~~ shall provide to
25 the commission based on a schedule to be developed by the
26 commission, by rule or regulation, in consultation with the advisory
27 panel established in Section 71204.9 and the United States Coast
28 Guard, the following information in electronic or written form:

29 (A) The manufacturer and product name of the ballast water
30 treatment system on board the vessel.

31 (B) If applicable, the name and organization that has approved
32 the ballast water treatment system and the approval or certification
33 number of the ballast water treatment system technology.

34 (C) The number of tanks and the volume of each tank that is
35 managed using the ballast water treatment system and that was
36 discharged in waters of the state.

37 (D) Any additional information required by the commission by
38 rule or regulation.

39 (2) The information required by paragraph (1) shall be provided
40 on a form developed by the commission.

1 (h) The master, owner, operator, agent, or person in charge of
2 a vessel subject to this division that has a ballast water treatment
3 system installed on board ~~that is used to comply with this division~~
4 shall maintain on board the vessel, in written or electronic form,
5 records, including, but not limited to, all of the following
6 information:

7 (1) Copies of all reports and forms described in subdivision (g),
8 submitted to the commission.

9 (2) Material safety data sheets for all chemicals utilized in
10 conjunction with the ballast water treatment system.

11 (3) System manufacturer’s technical guides, publications, and
12 manuals.

13 (4) Ballast water treatment system performance information,
14 which may be incorporated into the ballast *water* log described in
15 subdivision (d), and includes, at a minimum, all of the following
16 information:

17 (A) The date, time, and location of the starting and stopping of
18 the system for the purpose of treating ballast water.

19 (B) System malfunctions or unexpected situations, including
20 problem resolution.

21 (C) Both scheduled and unscheduled maintenance of the system.

22 (D) All relevant measures of performance recorded during
23 system operation.

24 (E) Any additional information required by the commission by
25 rule or regulation.

26 SEC. 7. Section 71205.3 of the Public Resources Code is
27 amended to read:

28 ~~71205.3. (a) On or before January 1, 2008, the commission~~
29 ~~shall adopt regulations that do all of the following:~~

30 ~~(1) Except as provided in Section 71204.7, require an owner or~~
31 ~~operator of a vessel carrying, or capable of carrying, ballast water~~
32 ~~that operates in the waters of the state to implement the interim~~
33 ~~performance standards for the discharge of ballast water~~
34 ~~recommended in accordance with Table x-1 of the California State~~
35 ~~Lands Commission Report on Performance Standards for Ballast~~
36 ~~Water Discharges in California Waters, as approved by the~~
37 ~~commission on January 26, 2006.~~

38 ~~(2) Except as provided in Section 71204.7, require an owner or~~
39 ~~operator of a vessel carrying, or capable of carrying, ballast water~~

1 that operates in the waters of the state to comply with the following
2 implementation schedule:

Ballast water capacity of vessel	Standards apply to new vessels in this size class constructed on or after:	Standards apply to all other vessels in this size class beginning on:
<1500 metric tons	January 1, 2016	January 1, 2018
1500-5000 metric tons	January 1, 2016	January 1, 2016
>5000 metric tons	January 1, 2016	January 1, 2018

10

11 (3)

12 71205.3. (a) Notwithstanding Section 71204.7, ~~require the~~
13 ~~commission shall adopt regulations that require, on and after~~
14 ~~January 1, 2020, an owner or operator of a vessel carrying, or~~
15 ~~capable of carrying, ballast water that operates in the waters of the~~
16 ~~state to meet the final performance standard for the discharge of~~
17 ~~ballast water of zero detectable living organisms for all organism~~
18 ~~size classes by 2020, as approved by the commission on January~~
19 ~~26, 2006. Organism size classes include all of the following:~~

- 20 (1) *Organisms greater than 50 micrometers in minimum*
- 21 *dimension.*
- 22 (2) *Organisms equal to or less than 50 micrometers and greater*
- 23 *than or equal to 10 micrometers in minimum dimension.*
- 24 (3) *Organisms less than 10 micrometers in minimum dimension,*
- 25 *including: Escherichia coli, intestinal enterococci, and toxigenic*
- 26 *Vibrio cholerae (serotypes 01 and 0139).*
- 27 (4) *Bacteria.*
- 28 (5) *Viruses.*

29 (b) ~~Not less than 18 months prior to the scheduled compliance~~
30 ~~date specified in paragraph (2) of subdivision (a) for each~~
31 ~~subsequent class and the date for implementation of the final~~
32 ~~performance standard, as specified in paragraph (3) of subdivision~~
33 ~~(a); On or before July 1, 2018, the commission, in consultation~~
34 ~~with the State Water Resources Control Board, the United States~~
35 ~~Coast Guard, and the advisory panel described in subdivision (b)~~
36 ~~of Section 71204.9, shall prepare, or update, and submit to the~~
37 ~~Legislature a review of the efficacy, availability, and environmental~~
38 ~~impacts, including the effect on water quality, of currently available~~
39 ~~technologies for ballast water treatment systems. If technologies~~
40 ~~to meet the performance standards standard are determined in a~~

1 review to be unavailable, the commission shall include in that
2 review an assessment of why the technologies are unavailable.

3 SEC. 8. Section 71206 of the Public Resources Code is
4 amended to read:

5 71206. (a) The commission, in coordination with the United
6 States Coast Guard, shall take samples ~~of ballast water and~~
7 ~~sediment from~~ and inspect at least 25 percent of the arriving vessels
8 subject to this division, examine documents, and make other
9 appropriate inquiries to assess the compliance of any vessel subject
10 to this division. The commission shall provide to the board copies
11 of all sampling results.

12 (b) The master, owner, operator, or person in charge of a vessel
13 subject to this division shall make available to the commission,
14 upon request of that commission, the records required by Section
15 ~~71205~~. *to be maintained by this division.*

16 (c) The commission, in coordination with the United States
17 Coast Guard, shall compile the information obtained from
18 submitted reports. The information shall be used, in conjunction
19 with existing information relating to the number of vessel arrivals,
20 to assess vessel reporting rates and compliance with the
21 requirements of this division.

22 SEC. 9. Section 71207 of the Public Resources Code is
23 amended to read:

24 ~~71207. (a) This division describes the state program to regulate~~
25 ~~the discharge or release of ballast water and other vectors of~~
26 ~~nonindigenous species from vessels regulated pursuant to this~~
27 ~~division. Prior to January 1, 2010, a state agency, board,~~
28 ~~commission, or department shall not impose a requirement,~~
29 ~~pertaining to the discharge or release of ballast water and other~~
30 ~~vectors of nonindigenous species from a vessel regulated pursuant~~
31 ~~to this division, that is different from the requirements set forth in~~
32 ~~this division, unless that action is mandated by federal law.~~

33 (b)

34 71207. (a) Nothing in this division restricts a state or local
35 agency, board, commission, or department, or a subdivision of one
36 of those entities, from enforcing this division, if the total fines
37 imposed by those entities do not exceed the amount of the fines
38 set forth in Section 71216.

39 (e)

1 (b) A person who violates this division is subject to civil and
2 criminal liability in accordance with Chapter 5 (commencing with
3 Section 71216).

4 (d)

5 (c) The commission may require a vessel operating in violation
6 of this division to depart the waters of the state and exchange, treat,
7 or otherwise manage the ballast water *or biofouling, or both*, at a
8 location determined by the commission, unless the master
9 determines that the departure or exchange would threaten the safety
10 or stability of the vessel, its crew, or its passengers.

11 SEC. 10. Section 71210.5 of the Public Resources Code is
12 repealed.

13 ~~71210.5.—The commission, in consultation with the board, the~~
14 ~~United States Coast Guard, and a technical advisory group made~~
15 ~~up of interested persons including, but not limited to, shipping and~~
16 ~~port representatives, shall prepare an analysis of the vectors, other~~
17 ~~than ballast water, and relative risks of those vectors, for release~~
18 ~~of nonindigenous species from vessels. This analysis shall include,~~
19 ~~but not be limited to, the release of nonindigenous species from~~
20 ~~vessel hulls, sea chests, sea suction grids, other hull apertures,~~
21 ~~in-water propellers, chains, anchors, piping and tanks. The~~
22 ~~commission shall prepare a report summarizing the results of this~~
23 ~~analysis and recommending action to reduce the discharge of~~
24 ~~nonindigenous species from vessel vectors other than ballast water.~~
25 ~~The commission shall submit the report to the Legislature and~~
26 ~~make it available to the public on or before March 1, 2006.~~

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