



SHIP SAFETY BULLETIN

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Subject: Coming into force: *New Ballast Water Regulations*

Purpose

This bulletin gives stakeholders general information about the new *Ballast Water Regulations* (the Regulations). They came into force on June 3rd, 2021 and are available online at: <https://canadagazette.gc.ca/rp-pr/p2/2021/2021-06-23/html/sor-dors120-eng.html>

Scope

The Regulations will apply to:

- Canadian vessels everywhere;
- and to foreign vessels that are in waters under Canadian jurisdiction.

Background

Canada first introduced voluntary guidelines to address the introduction of invasive species to the Great Lakes by international shipping in 1989. In June 2006, mandatory national rules were introduced pursuant to the *Canada Shipping Act: the Ballast Water Control and Management Regulations*.

On October 27, 2011 the Regulations were updated to bring them under the regime of the new *Canada Shipping Act, 2001*, which had entered into force on July 1st, 2007.

In 2017, the *International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004* (the Convention) came into force internationally.

Keywords:

1. *Ballast Water Regulations*
2. The Convention

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In 2010, Canada acceded to the Convention. The new *Ballast Water Regulations* will give effect to Canada's obligations under the Convention and further protect Canadian waters from the introduction and spread of aquatic invasive species and pathogens by Canadian and foreign vessels.

What you need to know

The Regulations incorporate by reference the requirements of the Convention.

The Regulations repeal the *Ballast Water Control and Management Regulations* and

- apply to Canadian vessels everywhere and all vessels in waters under Canadian jurisdiction;
- impose requirements based on the vessel's length, its ballast water capacity, its date of construction, and its area of operation; and
- maintain foundational requirements from the former regulations that can still be applied to the amended regime, such as reporting requirements.

Vessels to which the Regulations apply are divided into four groups:

1. International vessels

Vessels that operate internationally will be required to be in compliance with the Convention regime, which requires that vessels:

- have on board and implement an approved vessel-specific Ballast Water Management Plan;
- be surveyed and carry a Ballast Water Management Certificate;
- meet a performance standard that limits the number of organisms capable of reproducing in order to reduce the risk of aquatic species invasions (vessels are expected to use a Ballast Water Management System (BWMS) to meet the performance standard);
- record ballast water operations and maintain a Ballast Water Record Book on board; and
- be subject to inspections in ports or offshore terminals to ensure compliance.

These vessels will also be subject to some former provisions that remain relevant and are not part of the Convention regime:

- to flush otherwise-empty ballast tanks with open ocean water in order to reduce the risk posed by any residual ballast water and sediments;
- to exchange and flush ballast tanks in addition to meeting the performance standard when traveling to Canadian fresh waters (from outside of waters under Canadian jurisdiction, the Great Lakes and the high seas);
- to conduct any exchange or flushing operation in waters at least 2,000 metres deep, whenever possible; and

- to report on the provenance and management of ballast water released in Canada.

The Regulations will require all vessels on international voyage to comply with the Convention's requirements. The Convention requires vessels traveling internationally and built on or after September 8, 2017 to meet the performance standard when the vessel is launched. Conversely, as per the Convention, vessels built before September 8, 2017 will be required to meet the performance standard using a phased-in approach from 2019 to 2024.

2. Domestic and Great Lakes vessels

These vessels include those that operate exclusively in waters under Canadian jurisdiction, as well as those that operate there and at United States Great Lakes ports and/or on the high seas. To address the spread of species within Canada, domestic and Great Lakes vessels will be required to comply with the same applicable requirements as vessels in Group 1 above. However, those vessels constructed in or after 2009 will have until September 8, 2024 to come into compliance with the performance standard, while those vessels constructed before 2009 will have until September 8, 2030 to come into compliance.

Non-party vessels (e.g., United States vessels) that transit through Canadian waters of the Great Lakes Basin without loading or unloading ballast water (other than ballast water necessary for the purpose of ensuring the safety of the vessel on a voyage between non-Canadian ports) will be exempt from the Regulations.

3. Vessels of Non-parties

The Convention requires Canada to apply the requirements of the Convention to vessels of non-parties to ensure that no favourable treatment is given to such vessels. The Convention's requirements include the development of approved ballast water management plans for meeting the Convention's performance standard wherever ballast water is discharged - even if the ballast is ultimately discharged into waters of non-parties. The Regulations therefore require that vessels that load or discharge ballast water in Canada hold and keep on board a document of compliance issued by, or on behalf of, their flag state that certifies that the vessel meets the requirements of the Convention.

4. Vessels subject to the equivalent compliance regime

The Convention allows Canada to establish equivalent compliance requirements for certain international pleasure craft, and search and rescue craft that carry less than eight cubic metres of ballast water and are less than 50 metres in length. The Regulations will do so for these vessels by giving effect to the International Maritime Organisation (IMO) guidelines for equivalent compliance. For reasons of practicality and feasibility, the Regulations will also allow vessels less than 50 metres in length, as well as non-self-

propelled vessels with a gross tonnage of less than 3,000 tons, to follow the equivalent compliance regime if they operate exclusively in waters under Canadian jurisdiction, or in those waters and on the high seas. Equivalent compliance refers to a set of methods and best practices approved by the IMO that allows vessel owners to determine how best to manage ballast water on board their vessel, as installing and operating BWMS and meeting all of the requirements under the Regulations is not always feasible.

Exemptions

The Convention provides a mechanism for risk-based exemptions under its Regulation A-4. Transport Canada will consider applications for exemption on a case-by-case basis from vessel owners that meet exemption requirements under regulation A-4.

Same location

In accordance with the Convention, the Regulations do not require management of ballast water loaded and discharged at the same location, providing that no mixing with unmanaged ballast water has occurred. The Regulations specify that the term “same location” referred to in regulations A-3.5 of the Annex means locations within 10 nautical miles, without crossing an obstruction or barrier.