

**From:** Charles.K.Fluke@uscg.mil [mailto:Charles.K.Fluke@uscg.mil]  
**Sent:** Wednesday, January 09, 2013 11:39 AM  
**To:** john.pertgen@iadc.org  
**Cc:** Allain, Ryan CDR; Mehaffey, Jennifer; Fluke, Charles LCDR  
**Subject:** Applicability of BW regs for vessels operating beyond 12nm (territorial sea)

CG RESPONSE:

The Coast Guards authority under 33 CFR § 151 (Subpart D), implements the provisions of the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) (16 U.S.C. 4701-4751), as amended by the National Invasive Species Act of 1996 (NISA).

33 CFR §151 (Subpart D) Applicability: This subpart applies to all non-recreational vessels, U.S. and foreign, that are equipped with ballast tanks and operate in the *waters of the United States*, unless specifically exempted under §§ 151.2015 or 151.2020 of this chapter.

Waters of the United States means waters subject to the jurisdiction of the United States as defined in 33 CFR Sec. 2.38, including the navigable waters of the United States. For 33 CFR, subparts C and D, the navigable waters include the territorial sea as extended to 12 nautical miles from the baseline, pursuant to Presidential Proclamation No. 5928 of December 27, 1988.

Vessels operating exclusively beyond the waters of the United States (outside the territorial sea – 12 nm) regardless if the vessel changes Captain of the Port zones, anchors or moors are not subject to 33 CFR 151 (Subpart D) , including the reporting requirements as outlined in 33 CFR 151.2060. However, 33 CFR §151 (Subpart D) in its entirety is applicable upon a vessel (equipped with ballast tanks) entering and operating in waters of the U.S.

LCDR Charles Fluke  
Port State Control Program Manager  
COMDT CG-CVC-2  
2100 2nd St. S.W., Stop 7581  
Washington DC, 20593  
202-372-1235  
[charles.k.fluke@uscg.mil](mailto:charles.k.fluke@uscg.mil)