

DLNR Ballast Water Management Background

In 2007, the Board of Land and Natural Resources (“BLNR”) adopted HAR Title 13, Chapter 76, Subchapter 2 relating to Ballast Water Management to minimize the introduction and spread of non-indigenous marine life forms into waters surrounding the Hawaiian Islands. These administrative rules correspond to and complement federal regulations on ballast water to ensure consistency, provide best practices guidelines to improve vessel ballast water management prior to entering state marine waters, and establish a ballast water management program that includes a reporting system and compliance monitoring. Under the current DLNR rules, vessels arriving from outside of the State carrying ballast water are required to submit a ballast water reporting form both to the Coast Guard and the Department. Until recently, State and federal reporting requirements remained consistent.

On November 24, 2015, the United States Coast Guard (USCG) issued a final rule amending the Coast Guard’s ballast water management reporting and recordkeeping requirements. This includes new Ballast Water Management Report (BWMR) Web App and PDF form versions. This rule will also allow most vessels to submit ballast water reports after arrival at a port or place of destination, instead of requiring submission of such reports prior to arrival. The final rule went into effect February 22, 2016.

Prior to implementation, the Coast Guard began rollout on February 12 by posting new information implementing the USCG ballast water management reporting and recordkeeping final rule as published in the Federal Register on Nov. 24, 2015. Due to significant changes in reporting requirements with little lead-time and no phase-in period, several state agencies expressed concern that the change will cause major confusion and implementation problems for both vessels and state programs.

As a result, on February 24, 2016 (two days after the rules went into effect), USCG announced a transition period until May 1, 2016, for government and industry to adjust and adopt the new form. During the transition period, the National Ballast Water Information Clearinghouse (NBIC) will continue to process ballast water reports using the old form.

Hawaii’s ballast water management reporting requirements differ from the amended federal rules in several key areas that require a management notice to clarify the discrepancies and ensure vessel owners and operators will comply with both state and federal requirements. Key changes include:

1. Updating current ballast water report requirements by adopting a new reporting form titled “Ballast Water Management Report.”
2. Allowing vessel owners or operators to submit ballast water reports after arrival (as opposed to 24 hours prior) to the port or place of destination. Thereby eliminating the requirement of submitting amended ballast water reports.
3. Changes to the format of electronic reporting by allowing on-line form submission through the Web App program and email.

In order to accommodate the discrepancies between DLNR's rules and the new Coast Guard regulations, we are suggesting that DAR publish a DLNR Ballast Water Management Notice on its website for the following reasons:

1. DLNR rules require all qualifying vessels to “fully and accurately fill out the USCG ballast water report form.” The old USCG “Ballast Water Reporting Form” serves the same essential function as the new “Ballast Water Management Report.” This new form simplifies and streamlines the ballast water report form by effectively reducing reporting redundancies, while still providing the Coast Guard and states with the information necessary to analyze and understand ballast water management practices. As a result, the new form is consistent with the DLNR requirement that vessels fill out the USCG ballast water report form.
2. The amended Coast Guard regulation allows vessels to submit ballast water reports no later than 6 hours after arrival at the port or place of destination, or prior to departure from that port or place of destination, whichever is earlier. DLNR rules require ballast water reports to be submitted, “no later than twenty-four hours prior to vessel arrival into state marine waters.” HAR §13-76-19(a)(2). DLNR is instructing vessels to comply with Hawaii requirements by submitting reports no later than 24 hours prior to vessel arrival. The Coast Guard confirmed that following this practice fulfills both state and federal requirements for ballast water reporting.

In addition, DLNR rules require vessel operators to submit an amended form to the department before the vessel departs state marine waters, should there be a change in any of the information submitted. Therefore, we are asking vessel operators to label the subject line “AMENDED,” when using the new reporting form to submit an amended report.

3. Finally, DLNR rules require reporting forms to be submitted by fax or email. The Coast Guard regulations now allow submission via email (PDF) or an online fillable form (Web App). The online fillable form gets sent directly to the National Ballast Information Clearinghouse. It does not get sent or forwarded to DLNR. As a result, any vessel operators choosing to use the online form must also complete a separate PDF version with the same information and submit it to DLNR to comply with our reporting requirements.