

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 40

*An Act to amend and reenact §§ 28.2-110 and 28.2-111 of the Code of Virginia, relating to ballast water reporting.*

[S 115]

Approved February 28, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28.2-110 and 28.2-111 of the Code of Virginia are amended and reenacted as follows:**

§ 28.2-110. Filing requirements; penalty.

A. The operator, or a ship agent acting on behalf of the operator, of a commercial vessel that enters into Virginia waters shall file a Ballast Water Control Report form with the *Hampton Roads Maritime Association as the designated agent of the Commission* (i) within seventy-two hours of the completion of the discharge of ballast water if the commercial vessel discharges ballast water into Virginia waters, or (ii) prior to the commercial vessel's departure from Virginia waters if the commercial vessel does not discharge ballast water into Virginia waters. The operator, or ship agent of an operator, shall not be required to file a Ballast Water Control Report form if the commercial vessel's ~~point of origin~~ *previous port-of-call* is located within the United States Exclusive Economic Zone *and a ballast water control report was previously filed upon entering the first port-of-call within the United States Exclusive Economic Zone*. A Ballast Water Control Report form shall be deemed to have been filed when it is hand delivered to the ~~Commission~~ *Hampton Roads Maritime Association*, sent by electronic mail or facsimile transmission and received by the ~~Commission~~ *Hampton Roads Maritime Association*, or sent to the ~~Commission~~ *Hampton Roads Maritime Association* by registered or certified mail, return receipt requested. *The services of the Hampton Roads Maritime Association shall be provided at no cost to the Commission. The fees assessed by the Hampton Roads Maritime Association shall only be that amount necessary to cover the expenses for the reporting services provided to vessel operators and any associated recordkeeping related to the ballast water reporting requirements of this article. If in the judgement of the Commission or the Hampton Roads Maritime Association, the Hampton Roads Maritime Association is unable to satisfactorily perform its responsibilities, the Commission may (i) select another agent, provided proper notice of the change in the designated agent has been given to operators, or (ii) assume responsibility for carrying out the provisions of this section.*

B. For commercial vessels whose point of origin is located outside the United States Exclusive Economic Zone and whose first port of call within the United States Exclusive Economic Zone is within Virginia waters, the filing of a copy of the completed form submitted by the operator to the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center with the ~~Commission~~ *Hampton Roads Maritime Association* shall be deemed compliance with the reporting requirements of this section.

C. Any operator of a commercial vessel who knowingly fails to file a Ballast Water Control Report form with the ~~Commission~~ *Hampton Roads Maritime Association* within the applicable time period set forth in subsection A, or who knowingly makes any false statement in a Ballast Water Control Report form submitted to the ~~Commission~~ *Hampton Roads Maritime Association*, shall be guilty of a Class 1 misdemeanor.

§ 28.2-111. Adoption of guidelines and forms.

A. The Commission shall adopt the federal guidelines as the guidelines governing voluntary ballast water management practices to be followed by the operators of commercial vessels. The guidelines adopted by the Commission shall not require a commercial vessel to be operated in a manner that may threaten the safety of the commercial vessel, its crew or its passengers.

B. The Commission shall adopt Ballast Water Control Report forms, consistent with the form adopted by the United States Coast Guard and set forth in 33 C.F.R. Part 151, Subpart D, Appendix, to monitor compliance with the guidelines adopted pursuant to this section. The Commission shall adopt procedures to distribute the Ballast Water Control Report form to the operator of a commercial vessel, or to a ship agent for the operator, at the time the commercial vessel enters state waters or as soon thereafter as practicable.

C. The Commission shall submit copies of the forms received from operators of commercial vessels and ship agents acting on behalf of operators of commercial vessels with the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center on a quarterly basis. *The Hampton Roads Maritime Association shall submit such forms to the Commission monthly.*