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INVASIVE SPECIES: Enviro groups sue EPA over new ballast water requirements

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U.S. EPA's new ballast water treatment requirements allow cargo ships to dump invasive species into U.S. waterways, a coalition of environmental groups charged yesterday in a lawsuit filed in federal court.

The Stanford Environmental Law Clinic filed the suit in the 9th U.S. Circuit Court of Appeals in San Francisco on behalf of the Center for Biological Diversity, Northwest Environmental Advocates and People for Puget Sound. The groups say EPA's new permitting rules, issued in December, are not stringent enough to meet the requirements of the Clean Water Act.

The Natural Resources Defense Council plans to file a similar suit in the U.S. District Court for the Southern District of New York within the next nine days. "We are very much aligned with what the Northwestern Environmental Advocates filed yesterday," said Henry Henderson, NRDC's director of Midwest programs.

EPA's permit reflects current Coast Guard requirements for ballast water, which ships use to stay upright in rough waters. The regulations require oceangoing vessels to conduct mid-ocean ballast water exchange before entering U.S. waters or to retain their

ballast water while sailing through the nation's waterways. Alternatively, ships can use a Coast Guard-approved, environmentally sound method to manage their ballast water.

EPA also is requiring mandatory saltwater flushing for all vessels carrying unpumpable ballast water and residual sediment that leave U.S. waters and travel more than 200 nautical miles from any shore. The agency is mandating flushing for any vessels engaged in Pacific near-shore voyages that travel through more than one port zone and also journey at least 50 miles from shore.

The measures are aimed at preventing the spread of invasive species, including zebra mussels and infectious diseases like viral hemorrhagic septicemia, both of which have plagued the Great Lakes.

Nevertheless, the environmental groups say the agency did not go far enough and should implement stricter regulations. They say invasive species from foreign waters could greatly harm the United States' ecology and economy.

"The Clean Water Act requires a technology-based approach and a water quality-based approach, and EPA's permit seems to avoid doing

either one," said Nina Bell, executive director of Northwest Environmental Advocates. "Instead of evaluating what the best technology is that's available, EPA says to do ballast water exchange."

The agency also "leaves out ships that never get to the ocean," Bell said. "We're particularly concerned with what are called the 'lakers' that operate in the Great Lakes. They don't bring in new species, but they do distribute existing invasive species around the Great Lakes."

Benjamin Grumbles, EPA's assistant administrator for water, however, described the permit as a "practical and protective step forward for preventing pollution from ships and keeping our waters and coasts clean and healthy."

"We look forward to working with states and citizens to ensure progress continues as treatment technologies improve," he said in a statement.

EPA was forced to issue the permit after the U.S. District Court for the Northern District of California revoked a 1973 permit exemption for commercial and recreational vessels in 2006. A three-judge panel for the 9th U.S. Circuit Court of Appeals later upheld the district court decision.

The permit affects commercial vessels 79 feet in length or longer. It establishes pollution limits for discharges, including deck runoff, ballast water and graywater from showers, sinks and laundry machines.

Altogether, EPA estimates, about 61,000 U.S.-flagged and 8,000 foreign-flagged vessels will need to comply with the Clean Water Act permit. They will have to undergo specific corrective actions and inspections and follow record-keeping and reporting requirements.

Commercial shippers and cruise line operators must comply with the permit by Feb. 6 (Greenwire, Dec. 22, 2008).