



Summary of Ballast Water Legislation S. 1578

(Approved by the Senate Commerce,
Science, and Transportation Committee September 27, 2007)

The following is a summary of S. 1578, legislation amending the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements. The legislation has been passed by the Senate Commerce, Science, and Transportation Committee. The legislation is of critical importance to prevent the introduction and spread of aquatic invasive species in the Great Lakes.

Overview

- Addresses ballast water discharges from ocean-going vessels on a national scale and sets treatment standards for ballast water discharges.
- The Secretary of the Dept. of Homeland Security (via the U.S. Coast Guard) is given authority to regulate ballast water. The EPA is given the lead in setting performance standards and for verifying the performance of treatment technologies.

Treatment Standards

- Ballast water exchange requirements: requires all ships to immediately conduct ballast water exchange that results in 95% volumetric exchange, or treatment technology that removes at least 98% of organisms larger than 50 microns.
- Ballast water treatment requirements: vessels would be required to meet the treatment standards for ballast water discharge pursuant to the timeline discussed below.
- The treatment standards are robust – 100 times stricter than the standard adopted by the International Maritime Organization (IMO) and the standards will apply to all ocean-going ships. Vessels confined to the Great Lakes are exempted. (Great Lakes are defined as: Superior, Huron, Michigan, Erie, Ontario and connecting channels)

NOBOBs

- 180 days after enactment, the Secretary will adopt special regulations for NOBOBs, including at a minimum that vessels be required to conduct salt-water flushing before entry into the Great Lakes. Salt-water flushing is defined as adding mid-ocean water to ballast tanks that contain residual quantities of ballast water, mixing the mid-ocean water with the residual sediment in the ballast tanks, and then discharging the mixed water so that the salinity level of the water remaining in the tank exceeds 30 parts per thousand.

Timeline

- All vessels will be required to install treatment technology by 2012.
- If the Secretary determines that the technology to meet the treatment standard is not feasible, the best performing technology will be required, and at a minimum, vessels must meet the IMO standard. The Secretary is permitted to delay implementation for any class of vessels by 2 years (and there is a possibility of subsequent 2 year delays under the current language) based on the feasibility review. If the review determines that existing technology exceeds the standards, or that technology can be implemented faster than required by the schedule, the schedule may be accelerated, more stringent standards imposed, or both, after giving two-years notice.
- Promising new technologies must be used if available, and can be retained on a vessel for 10 years, while IMO-compliant technologies can only be retained for 5 years

Preemption

- States would be preempted from enacting any conflicting or inconsistent regulations regarding ballast water exchange and treatment requirements. In essence, the federal law would control ballast water regulation.
- The Clean Water Act is preempted.
- States are permitted to submit a list of “high risk vessels” to the Coast Guard and to enforce the national standards through technology development programs or other incentives – positive or negative – or imposing penalties or fines for violations of the federal regulation.

Rapid Response Provision

- A national response plan will be adopted to kill, reduce, or minimize the spread of aquatic nuisance species. Federal departments and agencies will coordinate with the states.

State Cooperative Agreements

- The Secretary and state governors may enter into agreements to implement the bill’s requirements in state waters.