Summary of Ballast Water Legislation

Ballast Water Provisions of H.R. 2830

(As passed/agreed to in the House, April 24, 2008)

The following is a summary of the ballast water provisions of H.R. 2830, legislation authorizing appropriations for the Coast Guard for FY 2008. The legislation was passed by the House of Representatives on April 24, 2008. The legislation is of critical importance to prevent the introduction and spread of aquatic invasive species in the Great Lakes.

Title V – Ballast Water Management

Overview

- Strengthens the national program addressing ballast water discharges from ships and sets treatment standards for those discharges.
- The Secretary of the Dept. of Homeland Security (via the U.S. Coast Guard) is given broad power to regulate ballast water and is charged with consulting with U.S. Environmental Protection Agency and other appropriate federal agencies.

Treatment Standards

- Ballast water exchange requirements: exchange will be required for vessels entering the U.S. at least 200 miles from shore until they are required to install treatment technology.
- Ballast water treatment requirements: vessels will be required to meet the treatment standards for ballast water discharge pursuant to the timeline discussed below.
- Robust treatment standards: 100 times stricter than the standard adopted by the International Maritime Organization (IMO) and applicable to all ocean-going ships.
- At the request of the Secretary of Agriculture, vessels operating exclusively within the Great Lakes are also required to adopt a treatment system to stop the spread of infectious diseases to plants and animals.

NOBOBs

- The Secretary (via the U.S. Coast Guard) will issue regulations for NOBOBs (ships with No Ballast On Board) within 180 days of enactment which must, at a minimum, require those ships to conduct saltwater flushing of ballast water tanks. These ships must also certify compliance with these regulations before being allowed to enter the Great Lakes. NOBOBs will be required to install treatment technology under the timeline discussed below.

Timeline

- All ocean-going vessels – including NOBOBs – will be required to conduct ballast water exchange until the treatment standards take effect.
- Ships will be required to install treatment technology that meets, at a minimum, the international standard set by the IMO when they are first dry-docked starting January 1, 2009. Vessels must adopt the U.S. standard (100 times stronger than the IMO standard) when they are first dry-docked starting January 1, 2012, but not later than December 31, 2013. Ships will be allowed to use the installed treatment technology for 10 years.
- The bill allows for a delay in application of the U.S. treatment standards for up to two years (to 2014) if the Secretary determines that appropriate technology is not available for any class of vessels. Even if such technology doesn't exist, the Coast Guard is required to apply the best available treatment technology at the time. In essence, the more stringent technology may not be installed in some ships until 2022 (or 2024 if implementation of the U.S. standard is delayed). For example, a ship that installs the less stringent technology before 2012 would not be required to upgrade for 10 years.

Preemption

- State programs in effect on January 1, 2007, will remain in effect until January 1, 2012, when the U.S. standard may take effect. States are also allowed to submit a list of "high risk vessels" to the Coast Guard, and states may seek approval of their own enforcement regimes. States may assess greater fines or penalties for violations of the federal standards. States may impose more stringent treatment standards for ballast water discharged to land- or water-based reception facilities.
- The Clean Water Act is not expressly preempted nor does the bill include a "savings clause" clarifying states' ability to establish their own water quality standards or require NPDES permits.

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.

Prepared by the Great Lakes Commission, April 2008
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