



# Ballast Water Regs and Legs Update

GL/MRBP ANS Panel Meeting  
Milwaukee, WI  
June 12, 2008

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# Presentation Overview

- Background info: Why set a Ballast Water Discharge Standard?
- Elements of the proposed rulemaking
- Supporting Analyses
- Ballast Water Legislation



# Why do we need a standard?

- Issues with Ballast Water Exchange:
  - Voyage constraints/effectiveness
- Benchmark to approve BWM Systems
  - Easier to compare to than BWE
  - Should increase the level of prevention against NIS introductions
- NISA gives us all the authority we need to establish a standard



# Standard Development History

- Federal Register Notice (2001)
  - 4 options for setting standards
- ANPRM (2002) solicited comments on goals and standards
- Expert Panel Workshops (2001-2003)
- International Maritime Organization (2004)



# Standard Development History (cont'd)

## Expert Panels and workgroup:

- Looked at percentage removal of organisms
- Decided on a concentration of organisms per volume of ballast water based on sizes of organisms.

## International Maritime Organization:

- Adopted the BWM Convention in 2004



# Elements of the Rulemaking

The BWD Standard rulemaking would:

- Set a concentration-based standard (# of organisms/volume of ballast water)
- Issue an implementation schedule, vessel applicability, legal and regulatory exemptions
- Accounts for BWMS in other programs (IMO, CA, research programs)



# BWD Standard Rulemaking (cont'd)

- Be used to approve BWT technologies for:
  - Biological Efficacy (testing requirements)
- Must *ALSO* meet Engineering and Operational Requirements (46 CFR)
  - Approval of Electrical, Engineering and Piping Equipment
- Meet FIFRA requirements



# Supporting Analyses

- Environmental Analysis:
  - Under NEPA, assess reasonable and prudent alternatives to the proposed action(s)
  - Identify and analyze environmental impacts
  - By setting a standard, what is the probability of an invasion occurring
  - Draft Programmatic Environmental Impact Statement



# Supporting Analyses (cont'd)

- Considerable Cooperating Agency input & review: EPA, NOAA, FWS, and APHIS
- Modeling input by Dr. Andy Solow (WHOI)
- Expert review committee assembled by Volpe:
  - Jim Carlton (Williams College)
  - Cabell Davis (WHOI)
  - David Smith (Smith College)
  - Carlton Hunt (Battelle)



# Supporting Analyses cont'd

- Executive Order 12866
  - Assess cost and benefits
- Regulatory Flexibility Act
  - Economic impacts to small businesses
- Small Business Regulatory Enforcement Fairness Act
  - Assistance to small businesses





# Legislative Update

- In 2007, at least 10 pieces of ballast water legislation were introduced or drafted
- H.R. 2830 Coast Guard Authorization Act
  - Coast Guard issued a press release
  - White House issued a statement
- S. 1578 Ballast Water Management Act of 2007
  - The White House submitted views letter w/an “Administrative proposal”



# Legislative Update (cont'd)

- The Administrative proposal:
  - Addresses court order requiring EPA to permit all vessel discharges
  - Sets the IMO std first, then the 100x more stricter std on a sliding schedule
- Election year will play a role in both the development of BW legislation and regulations



# Current BW Regs

- True or False: Ballast water regulations only apply to commercial vessels?
- False: Public vessels including Fed. Govt vessels such as research vessels or passengers vessels are required to comply. NISA exempts DOD and CG vessels.

