USCG’s Ballast Water Regulatory Program

Public Meeting: Draft NPDES Permitting Program

June 19, 24, 26 & July 21, 2008

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Presentation Overview

- Background info: Current legs and regs
- Ballast water discharge standard proposed rulemaking
- Supporting Analyses
- Ballast Water Legislation
What is ballast?
Vessel-mediated Invasions
Invasion Impacts
Great Lakes Legislation

- Nonindigenous Aquatic Nuisance Prevention Control Act of 1990 (NANPCA)
  - BWM regulations established for the Great Lakes in 1993
  - Extended to the Hudson River in 1994
Great Lakes Regulations

- All vessels inbound from outside EEZ carrying BW must use one of the following:
  - Exchange
  - Retain
  - Treat

- Vessels unable to exchange cannot discharge
National Invasive Species Act of 1996 (NISA):

- The National Ballast Information Clearinghouse established in 1997
- Regulations for National Voluntary Guidelines established in 1999
- Regulations finalized in 2001
- Report to Congress of 2002
Regulations
Implemented in 2004

- Penalties for Non-submission of Ballast Water Reports:
  - Expanded Reporting/recordkeeping requirements
  - Up to $27,500 and 12 years in prison for non-compliance
  - Includes non-compliance w/the Great Lakes and National BWM Program
National Ballast Water Management Program:

- Vessels that operated outside the U.S. EEZ must employ one of the following BWM method:
  - Ballast Water Exchange
  - Retain Ballast Water Onboard
  - USCG Approved Method

- All vessels must conduct best management practices (clean tanks, sediment removal, etc.)
- All vessels must have a BWM Plan
NOBOB does not mean no risk of invasion!

NOBOB Ballast Leg
What are NOBOBs carrying?
NOBOB Policy Development

- Former NY Attorney General and Governor Files Petition for NOBOB rulemaking in July 2004
- Coast Guard solicits public comments and holds technical workshop in May 2005
- Coast Guard publishes NOBOB Policy in August 2005
NOBOB Policy of 2005

BMPs for NOBOB vessels:

- Vessels to conduct BWE prior to entering the Great Lakes
- Vessels should conduct saltwater flushing when possible
- Report the use of these practices to the Coast Guard

One year of man-hours lost
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 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)
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
- Requirements for recognized laboratories

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:
  - Jim Carlton (Williams College)
  - Cabell Davis (WHOI)
  - David Smith (Smith College)
  - Carlton Hunt (Battelle)
Supporting Analyses cont’d

- Assess cost and benefits (E.O. 12866)
  - Costs of installing and operating BWMS
  - Costs of testing BWMS
  - Benefits to the environment

- Regulatory Flexibility Act
  - Economic impacts to small businesses
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”
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
- States allowed to establish no-discharge zones subject to Federal Approval
- States may petition us for review/revision of regulations and standards.
## Other Regulated Vessel Discharges

<table>
<thead>
<tr>
<th>MARPOL Annex</th>
<th>Pollution Prevention Category</th>
<th>Implementing Regs:</th>
</tr>
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<tbody>
<tr>
<td>I</td>
<td>Oil</td>
<td>33 CFR 151, 155, 156, 157</td>
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<tr>
<td>II</td>
<td>Noxious Liquid Substances (NLS)</td>
<td>33 CFR 151</td>
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<tr>
<td>III</td>
<td>Harmful substances in packaged form</td>
<td>46 CFR 148, 49 CFR 176</td>
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<tr>
<td>IV</td>
<td>Sewage</td>
<td>33 CFR 159</td>
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<tr>
<td>V</td>
<td>Garbage</td>
<td>33 CFR 151</td>
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<tr>
<td>VI</td>
<td>Air</td>
<td>None to date/ pending: MOC Policy Ltr 05-02</td>
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