

SHIPPING INDUSTRY BALLAST WATER COALITION

Industry Stakeholders Promoting Safe & Effective Ballast Water Management

October 28, 2003

Docket Management Facility (USCG-2003-14273)
U.S. Department of Transportation
Room PL - 401
400 Seventh Street, SW
Washington, DC 20590-0001

RE: Mandatory Ballast Water Management Program for U.S. Waters (33 CFR Part 151, Federal Register, July 30, 2003, Vol. 68, No. 146, pp. 44691 – 44696)

Dear Sir or Madam:

The undersigned members of the Shipping Industry Ballast Water Coalition respectfully submit the following comments in response to the Notice of Proposed Rule Making (NPRM) entitled “*Mandatory Ballast Water Management Program for U.S. Waters*” and referenced above. The Shipping Industry Ballast Water Coalition is a broad-based industry coalition formed to promote the development of a practical, effective, and comprehensive mandatory national ballast water management program in the United States to address the important issue of transfer of aquatic nonindigenous species via discharged ballast water in a manner protective of marine safety and the environment. Our coalition and its member associations represent the full spectrum of vessels – tankers, bulk carriers, container vessels, ro-ro vessels, towing vessels, and barges, both U.S. and foreign-flag – that carry the preponderance of this nation’s domestic and international commerce, the public U.S. ports at which they call, and U.S. maritime labor.

The Coalition continues to support the creation of a comprehensive, mandatory, national ballast water management program, as documented in previous responses to ballast water related rulemakings, and particularly those comments submitted to the docket entitled “*The National Ballast Water Management Program*” (USCG 2001-10062). We are pleased to submit these comments in support of that goal, and we appreciate the Coast Guard’s continued leadership on this issue, both nationally and internationally.

We would like to make several points regarding the NPRM:

First, the Coalition believes that the NPRM represents a well-reasoned and balanced approach to the regulation of ballast water. The approach takes into account the critical needs of the United States to maintain the free flow of maritime commerce, the ability of

the global maritime industry to operate in an environmentally responsible manner and the operational and safety needs of a wide variety of vessel types and cargo configurations.

The Coalition recognizes that for over a decade, this issue has been debated in international, national and sub-national bodies with varying degrees of success and consistency in requirements. For this reason, the Coalition has and continues to support the belief that mandatory international and national programs, consistent one with the other, will maximize the benefits to the marine environment from efforts to manage ballast water discharges from vessels.

The Coalition also believes that it is unlikely, from an economic and technological perspective, to make a leap from the status quo to 100% control of species discharged in ballast water. As such, we support the Coast Guard's proposal as a critical step in implementing mandatory ballast water management requirements.

The Coalition supports the establishment, under U.S. leadership, of a new International Convention for the Control and Management of Ships' Ballast Water and Sediments. We are hopeful that the IMO deliberations will be successfully concluded at the Diplomatic Conference in February of 2004 and will provide for a uniform, predictable and effective international program. We believe the Coast Guard established a model for achieving consistent domestic and international requirements by its negotiation at the IMO of a new international security code for ships and port facilities and implementing domestic maritime security rules consistently with those international standards. We believe that establishment of meaningful requirements for ballast water management requires a similar approach in which consistent international and domestic requirements are developed.

We urge the Coast Guard to finalize rulemakings currently underway relating to the establishment of a ballast water discharge standard and establishment of an experimental shipboard testing program, taking into account the outcomes of the February 2004 Diplomatic Conference.

The Coalition supports the creation of the mandatory ballast water management program for all vessels equipped with ballast water tanks entering U.S. waters after operating beyond the U.S. Exclusive Economic Zone (EEZ). We urge the Coast Guard, however, to recognize that the unique characteristics of domestic tug-barge units on coastal voyages with frequent cargo loading and unloading operations may require different approaches to ballast water management than those that apply to vessels that have operated beyond the EEZ. Domestic tug-barge units operate almost exclusively within the EEZ and their operational profile is very different from that of deep-draft ships for which the existing voluntary ballast water management program was designed. The operational characteristics of tug-barge units would make it difficult, if not impossible, to comply with the proposed mandatory ballast water management practices in paragraph (a) of 33 CFR 151.2035. We urge the Coast Guard not to finalize the requirement for ballast water management plans for barges and towing vessels that operate entirely within the EEZ until the agency has worked with industry to develop a set of reasonable and

achievable management practices appropriate to barge and towing vessel operations. In addition, the Coalition strongly urges the Coast Guard to explicitly exempt unmanned barges due to the significant safety issues associated with placing crew aboard those vessels to perform ballast water exchange in the harsh mid-ocean environment.

We also support the Coast Guard's proposed elimination of the 2000-meter depth requirement for performing mid-ocean ballast water exchange, and support the proposed 200 nautical mile offshore requirement for performing ballast water exchange. We believe that eliminating the depth requirement will permit a larger number of vessels to safely execute a complete ballast water exchange than would have otherwise been the case.

The Coalition supports the inclusion of four ballast water management methods, any of which, would constitute compliance with the requirements. However, as pointed out in the supplemental discussion in the NPRM, the only likely method to be used in most cases is ballast water exchange, for the reasons noted below:

- 1) Retention of ballast water on board the vessel is generally not an option for safety reasons, particularly for existing ships. However the Coalition recognizes that some new vessels are being constructed with either permanent ballast water tanks or with piping systems that permit transfer of ballast from one cargo configuration to another thereby obviating the need to discharge and reload ballast water.
- 2) Discharge of ballast water to shore reception facilities is not an option due to the lack of these facilities in a vast majority of ports--a situation that is not expected to change in the short to medium-term future.
- 3) Use of an alternative environmentally sound ballast water treatment method is not an option until the Coast Guard promulgates a performance standard. However, the Coalition is optimistic, that once a standard has been promulgated and taken in conjunction with the experimental shipboard testing program, use of alternative ballast water treatment methods will become a reality for a number of vessels. This will also be facilitated by an effective approval regime for experimental ballast treatment systems that promotes the voluntary actions by the ship operators in installing these systems for research and developmental purposes.

The Coalition strongly supports the provisions that would not require the vessel to deviate from its voyage or delay the voyage for the sole purpose of conducting a ballast water exchange. Without these provisions, the impact on maritime trade would be significant.

The Coalition requests that the Coast Guard confirm that ballast water management plans may be created for classes of vessels that have similar design and operating characteristics. To that end, we also recommend that the Coast Guard consider

developing a template ballast water management plan, which could be provided to the regulated community to assist vessel owners and operators in developing their ballast water management plans.

The Coalition reviewed the Coast Guard's preliminary cost analysis, in which the agency estimated that approximately 7,240 vessels would be affected and that the annual costs for compliance would total approximately \$15.8 million, or approximately \$2180 per vessel per year. For informational purposes, one member of the Coalition estimated that the annual costs for complying with these regulations using ballast water exchange would be \$7970 per vessel per year (the vessels for which this estimate was prepared are class of 950 foot, 60,000 ton container ships that each hold approximately 12,000 tons of ballast water).

Finally, the Coalition supports the application of the provisions of the proposed rule that would allow discharge only of an amount of ballast water "operationally necessary". However, the Coalition believes that a definition of this term may be necessary to avoid inconsistent application by those enforcing these provisions. If the Coast Guard decides to develop such a definition, we recommend that the definition be devised as a formula that takes into account unique design and operating characteristics of vessels as well as their cargo configurations and discharging requirements.

The Ballast Water Coalition appreciates the opportunity to comment on this important rulemaking and would be pleased to answer any questions relative to this issue or resulting from our comments.

Sincerely,

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