

BALLAST WATER MANAGEMENT

Federal Action Should Prevent the Introduction of Non-Indigenous Aquatic Species from Ballast Water

What Is Ballast Water?

An oceangoing ship uses ballast water to maintain its stability, balance and structural strength. In general, a vessel takes on ballast water as it unloads cargo and discharges ballast water as it loads cargo. In addition, a vessel may take on ballast water as it enters a harbor to safely pass under bridges and discharges ballast to safely cross shoals on the bottom of the waterway. Ballast water is essential to the safe and efficient operation of oceangoing shipping.

Why Is Ballast Water of Concern?

Non-indigenous species are a problem throughout the United States. Through a number of transmission methods, various types of plant life, insects, animals and other organisms (such as microbes) have been introduced into unfamiliar environments and some have caused economic or environmental harm.

Non-native aquatic species may be carried in the ballast water of international oceangoing vessels. More than 99 percent of U.S. overseas trade (by weight) is moved by ship. The marine environment is vulnerable to non-indigenous species being carried in ships' ballast water. This includes anything that is small enough to pass through a ship's ballast water intake ports and pumps, such as small invertebrates and the eggs, cysts and larvae of various species, as well as bacteria and other microbes.

Because oceangoing vessels generally transit internationally, transmission of aquatic species by ballast water is a global concern that requires an international solution and federal legislation.

AAPA has been an active member of the Shipping Industry Ballast Water Coalition, which represents the full spectrum of ocean carriers, as well as U.S. ports and maritime labor. The Coalition has advocated the development and implementation of a national ballast water management program that sets discharge standards consistent with those contained in the convention recently approved by member countries of the International Maritime Organization (IMO).

What is Being Done to Manage Ballast Water?

International: In February 2004, the member countries of the International Maritime Organization adopted a binding international agreement for mandatory ballast water management, which mandates a ballast water discharge standard (to be achieved through shipboard treatment) and will replace previous voluntary guidelines. While this treaty must be ratified by a sufficient number of countries to enter into force, the agreement to forward it for ratification marks the end of a ten-year process to develop an appropriate international regulatory framework.

U.S. Federal Government: The Federal Government currently regulates ballast water through two different – and competing – statutes. The Environmental Protection Agency (EPA) was forced to regulate ballast water under the Clean Water Act as a result of a court decision. The Coast Guard regulates ballast water as part of the National Invasive Species Act. The EPA has a Vessel General Permit (VGP) that covers all commercial vessels, which the agency is in the process of updating. The current VGP expires in December 2013. The Coast Guard has published draft regulations to regulate ballast water and set a discharge standard, but the Coast Guard has not yet published a final regulation.

States: Under the Clean Water Act, states have the authority to set standards that are more stringent than the federal standard. Several states have standards in place, but the standards are not necessarily workable with current technology.

What Needs to Be Done to Improve Ballast Water Management?

IMO Treaty Ratification: **The United States should ratify the IMO ballast water treaty.** The IMO treaty represents the work product of ten years of consensus-building internationally. The United States should ratify the treaty and urge other countries to do so as well.

Ballast Water Treatment Standard: **The United States should adopt an initial ballast water discharge standard consistent with the standard contained in the treaty.** This standard should be subject to the same pre-implementation review process outlined in the treaty, which will adjust the standard after taking into account the availability of new treatment technologies and additional data collected during technology demonstration projects.

Federal Preemption of State Regulation: **Congress should explicitly preempt state regulation of ballast water discharges from vessels.** Widely varying state and local requirements for the operation of vessels involved in international or interstate trade can adversely affect the competitiveness of the U.S. port industry and create compliance challenges for the commercial shipping industry. Only a strong national and international ballast water management program will assure prevention of the introduction of non-indigenous aquatic species into state waters.

Federal Exclusivity: **Congress should ensure that any law it passes to establish a mandatory ballast water management standard is the supreme federal law governing ballast water.** Congress should make clear that whatever law is passed to regulate ballast water should be the primary statute governing ballast water, and it should clear up any conflicts between competing statutory authorities and agencies' jurisdictions.

Certification of Ballast Water Management Technologies and Practices: **The United States should adequately fund a scientifically valid and defensible experimental shipboard testing program for ballast water management technologies and practices,** which can lead to the certification of technologies and practices for wide-scale use. The Shipboard Technology Evaluation Program, managed by the U.S. Coast Guard, offers the potential for experimental shipboard testing for ballast water management technologies, and Congress should provide adequate funding for this program.

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