



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

1010 Duke Street
Alexandria, VA 22314
Phone (703) 684-5700
Fax: (703) 684-6321
www.aapa-ports.org

June 14, 2005

The Honorable Ted Stevens
Chairman
Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510

Dear Chairman Stevens:

On behalf of the American Association of Port Authorities (AAPA), which represents the 86 U.S. public port authorities that accommodate ocean-going trade, I am writing to urge quick enactment of ballast water management legislation this year. Increasingly, public attention focuses on the introduction of non-indigenous species, and one of several methods of introduction of non-native aquatic species is via ocean-going vessels' ballast water. While public concern grows, the U.S. Coast Guard has not yet advanced a regulatory strategy to set ballast water discharge standards and treatment requirements, and state legislatures approve their own laws on this important public policy issue. As a result, there is a growing patchwork of requirements on ballast water operations and a lack of federal leadership on this important environmental issue.

Last fall, the Coast Guard's existing ballast water program became mandatory, which requires either ballast water retention or mid-ocean exchange by vessels before entering the U.S. Exclusive Economic Zone. While helpful, these methods have not proved to be adequate in preventing the introduction of non-native aquatic species. Shipboard treatment of ballast water is expected to provide more comprehensive protection of the environment.

In February 2004, the International Maritime Organization (IMO) adopted a ballast water management convention to create international standards for ballast water management and set treatment standards. As part of the Shipping Industry Ballast Water Coalition, AAPA has urged the United States Senate to ratify this treaty. Further, Congress should adopt an initial standard consistent with the treaty, subject to the same pre-implementation review process outlined in the treaty. Additionally, federal legislation on ballast water management should explicitly preempt state regulation of ballast water discharges from vessels, and it should be the supreme law governing ballast water.

The Honorable Ted Stevens
June 14, 2005
Page 2

The Ballast Water Management Act of 2005, S. 363, is a step toward AAPA's policy goals. Our members feel S. 363 represents a tremendous opportunity to move forward on much-needed ballast water legislation in the 109th Congress. This legislation contains many provisions identical to those in the IMO treaty, with a few notable exceptions:

1. the numerical treatment standard set forth in S. 363 should be identical to the standard in the IMO treaty, which was agreed by the member countries of the IMO as reasonably achievable yet still effective in addressing the non-indigenous species challenge;
2. the pre-review process in S. 363 should be strengthened to provide for a more rigorous testing prior to standard implementation;
3. the federal preemption language in S. 363 should be more explicit to make clear that any ballast water management regulations promulgated under the legislation will be the sole laws governing ballast water discharge in U.S. waters and would preempt any state laws on this matter; and
4. language should be added to S. 363 to indicate that any program developed as part of this legislation would be the supreme federal law on ballast water management, which would prevent the possibility of two concurrent, and possibly conflicting, sets of management provisions – namely, those set forth in S. 363 and NPDES permitting under the Clean Water Act – being enforced simultaneously.

While AAPA would like to see these changes made to the legislation before it moves forward, we support swift action on S. 363. America's public port authorities want to help solve the invasive species challenge, and setting standards for the treatment of ballast water to prevent the introduction of organisms is an important component of any solution.

We look forward to working with you to amend S. 363 and to ensure approval of this important piece of legislation in the 109th Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt J. Nagle", with a long horizontal flourish extending to the right.

Kurt J. Nagle
President & CEO