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American Association of Port Authorities

*Serving the Ports of Canada, the Caribbean,
Latin America and the United States*

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July 2, 2001

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

Re: Docket No. USCG-2001-8737 -- Potential Approaches To Setting Ballast Water Treatment Standards

Dear Sir or Madam:

I am writing on behalf of the American Association of Port Authorities (AAPA) to comment on the above-referenced request for comments on potential approaches to setting ballast water treatment (BWT) standards. AAPA, founded in 1912, is a trade association representing public ports of the United States (U.S.), Canada, the Caribbean, and Latin America. These comments represent the views of AAPA's U.S. delegation only. AAPA provides these comments in addition to the comments we submitted jointly with the Shipping Industry Ballast Water Coalition.

We applaud the Coast Guard's effort in seeking input on approaches for setting a BWT standard. AAPA recognizes the importance of invasive species issues, and we urge the Coast Guard to move expeditiously to establish a mandatory national ballast water management program. One important step in this effort is to establish a BWT standard so the Coast Guard can approve the use of BWT alternatives in lieu of ballast water exchange. AAPA believes the Coast Guard should set a reasonable BWT standard using the best available information as soon as possible, and that the BWT standard should be applied within a predictable regulatory framework.

We respectfully submit the following comments in response to the specific questions contained in the Federal Register notice concerning potential approaches to setting a BWT standard:

Question a.1.: *Should a standard be based on BWE, best available technology, or the biological capacity of the receiving ecosystem? What are the arguments for, or against, each option?*

Response: The National Invasive Species Act, as amended, provides that the Coast Guard approve alternative ballast water management methods that are “as effective as ballast water exchange.” Thus, it does not appear that the Coast Guard has the authority to set a BWT standard different from ballast water exchange under existing law. Given the current lack of understanding about alternative ballast water management methods and about invasion ecology, ballast water exchange (BWE) appears to be the most likely basis from which a BWT standard can be reasonably developed in the immediate future.

Question a.2.: *If BWE is the basis for a standard, what criterion should be used to quantify effectiveness: the theoretical effectiveness of exchange, the water volume exchanged (as estimated with physical/chemical markers), the effectiveness in removing or killing all or specific groups of organisms, or something else; and why?*

Response: AAPA believes the Coast Guard should establish a reasonable BWT standard using the best available information as soon as possible. While AAPA has not reviewed all of the literature relating to the effectiveness of ballast water exchange, we understand there is a need to better understand the relationship between the effectiveness of replacing water during an exchange and the effectiveness of removing organisms (depending on the type of organism). It would therefore seem reasonable to set a standard that reflects a realistic removal efficiency for ballast water exchange for some limited number of types of organisms. However, the Coast Guard should balance this desire for realism against the need to begin testing and approving alternative ballast water management methods.

Question a.3.: *How specifically should the effectiveness of either BWE or best available technology be determined (i.e., for each vessel, vessel class, or across all vessels) before setting a standard based on the capabilities of these processes?*

Response: AAPA believes the Coast Guard should use a coarse average of removal efficiency (as described in Question a.2.) across the widest range of vessel types available in the current literature. As noted in the Federal Register notice, substantial research would be needed to do otherwise, and this would unduly delay the setting of a BWT standard.

Question a.4.: *What are the advantages and disadvantages of considering the probability of conducting a safe and effective BWE on every voyage when estimating the overall effectiveness of BWE?*

Response: AAPA believes the removal efficiency should only be assessed using data from individual successful ballast water exchange events. (A successful ballast water exchange is defined in the Coast Guard regulation, 33 CFR 151.2025.) While we strongly support having a

“safety exemption” for vessels that are unable to conduct ballast water exchange, we do not believe it is reasonable to try to factor into a BWT standard this level of complexity for something that is, in fact, an “exemption.”

Question a.5.: *What are the advantages and disadvantages of expressing a BWT standard in terms of absolute concentrations of organisms versus the percent of inactivation or removal of organisms?*

Response: We believe a “percent of inactivation or removal” standard makes the most sense because of the wide variation in organism loads in ballast water. However, if the performance data from ballast water exchange monitoring studies suggest absolute concentrations are a better measure of ballast water exchange effectiveness, then the Coast Guard should use that approach.

Question b.1.: *Should there be different initial standards or regulatory requirements for existing and yet-to-be-built vessels, and what might be the nature of such differences? Should there be incremental refinements (quantitative level or taxonomic breadth) in the standard over time, and if so, what should be the period of approvals and the timing of revisions?*

Response: AAPA believes that the environment and commerce are best served when there is a predictable regulatory system. We believe that there must be consideration given to different treatment of new and existing vessels so that vessel owners can make reasoned investment decisions. It is our understanding that there is existing precedent within International Maritime Organization (IMO) regulation of vessels to account for phasing-in new regulatory requirements. Similarly, while we urge the Coast Guard to move forward with a reasonable BWT standard based on available information, we recognize that this standard may need to be revised as additional information becomes available. Any phasing-in provisions for existing vessels should also apply to vessels serving as testing platforms for alternative ballast water management options once these tests have been completed.

Question b.2.: *If best available technology is the basis for standards, how should “best” and “available” be defined?*

Response: We do not believe best available technology should be used as a BWT standard for the reasons described in response to Question a.1.

Question b.3.: *Should indicators be used to characterize or monitor effectiveness, and if so, what indicators should be used? Some possible indicators are:*

--A single organism type (like dinoflagellate cysts) that serves as a lone indicator of effectiveness.

--A limited set of indicators representative of near-coastal zooplankton, phytoplankton, and bacteria that provide a profile of effectiveness across broad taxonomic groupings.

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--Physical surrogates for organisms, such as microspheres, that mimic the passive entrainment of organisms in water.

--The percent of reduction in all organisms regardless of type (as measured through ATP [Adenosine Triphosphate] reduction, for example), providing a blanket estimate of system effectiveness.

--Other methods for characterizing the effectiveness of BWT measures that could be alternatives to the above list.

Response: AAPA believes the Coast Guard should set a reasonable BWT standard using the best available information as soon as possible, and that the BWT standard should be applied within a predictable regulatory framework. As in most regulatory programs, it is necessary to use surrogate organisms that are capable of being used in experiments and are appropriate to represent the environmental conditions of concern. AAPA does not possess specific information on this issue, but we believe the Coast Guard must explore the use of a limited set of surrogate organisms so the agency can set a reasonable BWT standard and a predictable approval process for alternative ballast water management methods as soon as possible.

Thank you for the opportunity to provide these comments. We look forward to working with the Coast Guard on this matter in the future. If you would like to discuss these comments further, please contact me or Tom Chase, AAPA's Director of Environmental Affairs.

Sincerely,



Kurt J. Nagle