AMERICAN
GREAT LAKES PORTS
ASSOCIATION

2018 Position Paper

Aquatic Nuisance Species / Ballast Water Management

Summary:

The problem of aquatic nuisance species has challenged the Great Lakes region for more than 20 years. There are a number of vectors by which non-native species might enter the Great Lakes, including the ballast water of ocean-going vessels. In response to this problem, the U.S. Coast Guard, the U.S. Environmental Protection Agency, and most Great Lakes states have established ballast water management regulations. While these rules will help protect the Great Lakes, the regulatory landscape is chaotic and threatens to impede commerce with inconsistent requirements.

AGLPA Position:

Congress should enact the Commercial Vessel Incidental Discharge Act (S. 168 / H.R. 1154), legislation to create consistent national standards for the regulation of ships' ballast water and to establish clear and exclusive federal jurisdiction over ballast water regulation to be administered by the U.S. Coast Guard.

Additional Background:

When not fully loaded, cargo ships must take on water (ballast) to maintain their stability. Once pumped onboard, ballast water is stored in narrow cavities (ballast tanks) built into the hull of a ship. Ballast water pumped onboard in one port may inadvertently contain aquatic organisms that are then released when the ballast is discharged in another port. In most cases, these organisms die. However, in some cases, they thrive in the new environment, disrupting the local aquatic ecosystem. As global trade expands, concern over the movement of aquatic species is also growing. Today, aquatic nuisance species are a concern not only in the Great Lakes, but also in the Chesapeake Bay, the Gulf of Mexico, Puget Sound, San Francisco Bay and other areas. Likewise, species native to the United States are being spread to other parts of the world.

It is important to keep in mind that invasive species are unwelcome hitchhikers. Shipping companies may facilitate the movement of species as a consequence of their operations, but they do not do so knowingly or with malice.

Ballast Water Management - Federal Regulations

In an effort to address this challenge, numerous regulatory regimes have been put in place. Congress enacted legislation in 1990 requiring ocean-going vessels to exchange their ballast water while still at sea and before entering the Great Lakes and Hudson River. This legislation was reauthorized in 1996 and expanded to apply to all U.S. ports. By flushing ballast tanks with sea water, it is believed that most organisms are removed or killed. In 2006 additional salt water flushing requirements were imposed for ocean-going vessels entering the St. Lawrence Seaway. Today, every ship entering the Seaway from overseas is stopped, boarded and inspected to ensure compliance. Anacdotal evidence suggests that Seaway regulations have been helpful. No new aquatic nuisance speices have been discovered in the Great Lakes since 2006.

In 2004, the International Maritime Organization (IMO), a part of the United Nations, adopted a global agreement for the regulation of ships' ballast water. This agreement contains a specific, numeric ballast water quality standard. The agreement anticipates that ballast water management systems will be installed onboard vessels to filter and treat ballast water prior to discharge.

While the United States has not ratified the IMO treaty, in 2012 the U.S. Coast Guard implemented new federal regulations requiring all ocean-going vessels discharging ballast water into U.S. waters to install ballast water treatment technology to meet the IMO water quality standard. These rules require that vessels deploy such technology by their first dry-docking after January 1, 2016.

Under authority of the Clean Water Act, in 2008 the U.S. Environmental Protection Agency (EPA) also established ballast water regulations. The EPA's "Vessel General Permit," (VGP) required ballast exchange and additional best management practices. In 2013, the agency updated the VGP to include a regulatory program similar to the Coast Guard's. Specifically, the agency adopted the IMO water quality standard and requires discharges to meet that standard by the vessel's first dry-docking after January 1, 2016. The EPA's 2013 VGP applies to ocean-going vessels and Great Lakes vessels (Lakers) that operate east of Anticosti Island on the St. Lawrence River.

Ballast Water Management - State Regulations

In the Great Lakes region, seven of the eight states have issued their own ballast water management regulations. States took action through a number of legal authorities, including Section 401 of the federal Clean Water Act. Under Section 401 states certify whether a federal Clean Water Act permit is protective of state water quality. States may exercise the right to add additional conditions to any permit. All Great Lakes states have certified the VGP and seven have added their own permit conditions. Additionally, three of the eight states have established a state permiting system.

The following list summarizes current state requirements.

Minnesota
State requirements are generally harmonized with the EPA VGP/Coast Guard.

Wisconsin
State requirements are generally harmonized with the EPA VGP/Coast Guard.

Illinois
State requirements are generally harmonized with the EPA VGP/Coast Guard.

Indiana
State requirements are generally harmonized with the EPA VGP/Coast Guard.

Michigan
State requires ocean-going vessels to install one of four specific treatment technologies, which may - or may not - comply with the EPA VGP and Coast Guard water quality standards.

Ohio
State requirements are generally harmonized with the EPA VGP/Coast Guard.

Pennsylvania
No state requirements

New York
State requirements are generally harmonized with the EPA VGP/Coast Guard.

The need for regulatory reform is evident. Three federal agencies (Seaway, EPA, Coast Guard) and twenty-five states are all regulating ships' ballast water. By their very nature, ships are mobile. Multiple, inconsistent, and ever changing rules threaten maritime commerce and the economy.