



2501 M STREET NW, SUITE 300 WASHINGTON, DC 20037 202.833.3900 WWW.OCEANA.ORG

258020

October 28, 2003

VIA FACSIMILE (202) 493-2251

Docket Management Facility  
USCG-2003-14273 - 28  
U.S. Department of Transportation, room PL-401  
400 Seventh Street S.W.  
Washington, D.C. 20590-0001

2003 OCT 29 A 11:50

DEPT OF TRANSPORTATION  
FOCKETS

Re: Notice of Proposed Rulemaking, "Mandatory Ballast Water Management Program for U.S. Waters," 68 Fed. Reg. 44691 (July 30, 2003), USCG-2003-14273

To Whom It May Concern:

Oceana, a non-profit international advocacy organization dedicated to protecting and restoring the world's oceans, submits the following comments on the U.S. Coast Guard's notice of proposed rulemaking requiring mandatory ballast water management practices.

A mandatory program to address non-intentional introduction of nonindigenous species from ballast water is long overdue, but the proposed rule does not go far enough. The proposal essentially requires a complete ballast water exchange (BWE) (the only practicably feasible option of the four presented in the proposed rule) no less than 200 miles from shore, when it is feasible, safe, and does not take a vessel out of its route. A vessel unable to meet the requirements could discharge an amount of ballast water that is "operationally necessary" as long as records were kept of the reasons it could not comply with the regulatory requirements.

The Coast Guard itself has recognized that BWE is not a long-term solution. See 68 Fed. Reg. 55559, 55562 (Sept. 26, 2003) (requesting comments on proposed programmatic environmental impact statement for proposed regulatory action to establish a ballast water discharge standard). BWE is ineffective, and is difficult to monitor and enforce. Studies report that exchanging 95% of the ballast water removes only 20-90% of the organisms, and 95% exchange is often not accomplished. BWE can also be unsafe for vessels, and is of little benefit in coastwise traffic. Onboard and/or onshore treatment systems are more effective and easier to enforce and monitor.



Recognizing that the proposed rule provides only an interim solution, Oceana provides the following specific comments related to the proposed rule:

The rule should promote currently feasible practices especially with respect to passenger vessels. Current technology for advanced wastewater treatment systems for passenger cruise ships provides an opportunity for a very effective ballast water management approach. Wastewater treated by new technology to an advanced level can be used as ballast water. Upon discharge, the ballast is merely treated wastewater, making its discharge less of a concern from an invasive species standpoint. While we are not endorsing a specific technology vendor, we have been informed by Hydroxyl, Inc. that this procedure is technologically feasible. Requiring this approach for passenger ships and especially for those that are already using advanced treatment systems and new ships being built would likely be more effective than existing ballast water exchange options. For ships that are not currently using advanced wastewater treatment a phase in period should be allowed so that after a certain number of years, cruise ships can stop discharging ballast water that contains invasive species.

The exclusion for vessels not traveling more than 200 miles from any shore is unnecessarily permissive. The notice suggests that vessels would not be required to deviate from their voyages in order to conduct ballast water exchange. However, no additional guidance is given as to how those vessels should handle ballast water. At the same time, the example given suggests that such vessels would merely discharge ballast water in port. It is believed that organisms from shallow water have a lesser chance of survival when released in deep water and vice versa. Also, in the example given, the uptake and release of ballast water would occur at similar latitudes thus increasing the chances of survival of a species. While the distance traveled is relatively small, the frequency of trips of this length is likely to be high. Therefore, it would seem more prudent to require a deeper water exchange during some point on voyage, rather than defaulting to exchange at port. This could be a formula based on ballast exchange at the maximum distance from land, or a point of maximum depth. It also could be based on the edge of the exclusive economic zones of the countries between which the vessel is traveling. Defaulting to all discharge in port undermines the value of the rule especially as it pertains to passenger vessels which make numerous and repetitive trips between and among nearby ports.

The rule does not provide adequate scientific justification why ballast water releases are acceptable at less than 200 meters deep. The Coast Guard proposes to change the criteria for mid-ocean exchange by removing the constraint of requiring the exchange to occur in waters deeper than 200 meters, claiming that there is no consensus

on this criterion, it would allow more vessels to conduct an exchange, and it would simplify enforceability. We request that the agency provide a more thorough scientific discussion of its rationale for this proposed change.

Thank you for providing us the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Hirshfield', with a long horizontal flourish extending to the right.

Michael F. Hirshfield, Ph.D.  
Chief Scientist