

material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202-366-0271.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or comments. Persons submitting comments should please include their name and address and identify the docket number (USCG-2001-10486). You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard invites comments and suggestions on the proposed scope and content of the PEIS, as well as on the ideal means for notifying and involving the public. The Coast Guard will consider all comments received during the comment period.

##### Coast Guard's Transition to Department of Homeland Security

On March 1, 2003, the Coast Guard became an Agency under the Department of Homeland Security. As a result, the Secretary of the Department of Homeland Security assumed all Coast Guard duties once bestowed on the Secretary of the Department of Transportation.

##### Background

Under the National Invasive Species Act (NISA), Congress directed the Coast Guard to develop regulations to prevent the introduction and spread of nonindigenous species (NIS) in U.S. waters via ballast water discharge. According to the National Research Council (*see* reference 1), the uptake and discharge of ballast water is one of the largest pathways for the introduction and spread of aquatic NIS.

Living organisms can survive the process of being loaded into the ballast tanks, transported to different geographic locations, and released into a new environment (*i.e.* U.S. waters). The probability that NIS will survive once introduced into U.S. waters depends on a large number of poorly understood factors. While many of the transported NIS do not survive in U.S.

waters, those that do may establish populations, spread beyond the point of introduction, and cause adverse changes in the recipient ecosystem. In many cases, there can be significant time lags between when a NIS becomes established as a reproducing population and when its distribution and abundance increase to the extent that it becomes a recognized pest.

##### Legislative and Regulatory History

Congress directed the Coast Guard to prevent the introductions of NIS from ballast water in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), as reauthorized, and amended by the National Invasive Species Act of 1996 (NISA). In response to this direction, the Coast Guard established a program of mandatory requirements and voluntary guidelines in Title 33 of the Code of Federal Regulations part 151.

Acceptable ballast water management (BWM) methods include mid-ocean ballast water exchange (BWE), holding ballast water onboard, discharging ballast water to an approved reception facility, or use of an alternative Coast Guard approved BWM method. BWM is mandated for vessels entering the Great Lakes and the Hudson River but is voluntary in the rest of the U.S. waters.

On May 1, 2001, we published a notice and request for public comments (66 FR 21807) on four conceptual approaches to setting ballast water treatment (BWT) standards and on approaches for assessing the effectiveness of BWT relative to BWE. The comments we received revealed a wide range of opinion, indicating the need for more discussion. Subsequently, on March 4, 2002, we published an advance notice of proposed rulemaking and request for comments (67 FR 9632) on the development of a BWT standard. The Coast Guard is incorporating the information we received in response to the advanced notice into the proposed rulemaking.

Over the past two years, the Coast Guard has used several venues to explore options for BWT standards. These include technical discussions organized by: (1) The International Maritime Organization's (IMO) Global Ballast Water Program (Globallast); (2) the Ballast Water and Shipping Committee of the U.S. Aquatic Nuisance Species Task Force; and (3) the U.S. Coast Guard's Research and Development Center.

Although the initial **Federal Register** publications were phrased in terms of BWT standards, the critical issue has always been the quality of the ballast water actually discharged from vessels.

Therefore, beginning with this notice the emphasis will be on requirements related to ballast water discharges. This is also in line with the development of ballast water discharge standards internationally.

At the international level, in September 1995, the IMO identified the NIS threat as a major issue confronting the international maritime community. To address the issue, the IMO issued voluntary guidelines titled, "International Guidelines for Preventing the Introduction of Unwanted Aquatic Organisms and Pathogens from Ships' Ballast Water and Sediment Discharges." The IMO Marine Environment Protection Committee (MEPC) is currently developing an international, legally binding, instrument to mandate ballast water management, which would include an international standard for ballast water discharge.

##### Scoping

Preliminary investigations to define the scope of environmental issues that may be relevant to the proposed regulatory action indicate that there is the potential for both beneficial and adverse effects to the environment. The Coast Guard, in general, believes the proposed regulatory action's effects on the environment will be significantly beneficial. The Council on Environmental Quality's (CEQ) regulations for implementing the National Environmental Policy Act (NEPA) state that a significant environmental impact may exist even if an agency believes that the net balance of environmental effects are beneficial. Therefore, the Coast Guard has decided to prepare a PEIS.

The matter of establishing a ballast water discharge (BWD) standard for preventing the introduction of aquatic NIS involves two levels of environmental impact consideration: (1) An evaluation of the remaining probability of aquatic NIS introduction with the standard in place, as well as the associated potential for environmental consequences from introduction; and (2) the potential for environmental impacts from the use of particular management methods to meet the established standard. NISA calls for the use of environmentally sound<sup>1</sup>

<sup>1</sup> "Environmentally sound" methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures. The meaning of