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# Ballast water bottleneck

BY R.G. EDMONSON

**Y**ou can hear the frustration in Joel Mandelman's voice. His company has a solution. The government, environmentalists and the shipping industry have a problem, but bringing the two together has become mired in politics.

Mandelman is vice president and general counsel for Nutech O3 of Arlington, Va., one of a number of companies that have developed technologies to clean vessels' ballast water. Undesirable organisms that hitch in a ship's ballast tanks is a problem that everyone wants to go away.

The stakes are high. For manufacturers such as Nutech, it's a matter of survival. For carriers, it's avoiding a patchwork of regulations that could cause service reductions as ships steer clear of states where standards are above the norm. For shippers, even though rates will rise as carriers pass on the cost of treatment equipment, the worst cost would be less capacity in the supply chain.

"It is totally a political problem," Mandelman said.

The regulation of ballast water is the unlikely center of a political battle of wills between Sen. Daniel Inouye, D-Hawaii, chairman of the Senate Commerce Committee, and Sen. Barbara Boxer, D-Calif., chairwoman of the Senate Environment and Public Works Committee.

Inouye is the sponsor of Ballast Water Management Act of 2007. The bill would implement a 2004 International Maritime Organization convention for managing ballast water using IMO-approved "best available technology."

United States Coast Guard

The Coast Guard inspects all ships' ballast water before they enter the Great Lakes.

Technology exists to clean contaminated discharges,  
but politics stalls progress

Inouye's bill takes ballast water management out of the Clean Water Act and makes it the purview of the Coast Guard, Environmental Protection Agency and the Army Corps of Engineers.

The EPA also administers the Clean Water Act. On July 23, the 9th U.S. Circuit Court of Appeals in San Francisco upheld a lower court order that the EPA must publish rules under the law by Oct. 1 for controlling all water discharged from vessels. The EPA's short-term solution is a general permit exempting all vessels affected by the law.

The Clean Water Act allows citizens to sue polluters. It's something environmental groups supporting Boxer are loath to give up, and there's no citizen action clause in Inouye's bill. In addition, the Clean Water Act allows states to set higher standards for point-source pollution — a power plant, for example — than the EPA's standard.

"The issue is very simple: federal pre-emption and the Clean Water Act," Mandelman said. The federal government should be the sole authority because ships move between states that could have different standards. "The (Inouye) bill says this is the only federal law that will regulate ballast water. Boxer violently objects to that."

Mandelman said ballast water bills have been before Congress in one form or another since 2000. "Here we are, eight years after we were told this bill would be law, and it hasn't passed," he said. The delay has put a financial strain on start-ups such as Nutech O3. Mandelman also chairs the Clean Oceans Technology Coalition, composed of mostly small technology companies that hope to make it big in ballast water treatment.

"We've had members go bankrupt because they couldn't get investment capital," Mandelman said. "It all comes back to the fact that there's no bill, no standard.

You can't get investors to put up money.

"Everybody would say, 'We think what you're doing is great; you're going to make a ton of money. Come back and see us when somebody tells us what the rules of the game are,'" Mandelman said.

"It is a serious concern that you hear a lot from vendors. They need a target to shoot for," said Charles Diorio, director of governmental affairs for the World Shipping Council. "The IMO standard is out there, we have kind of a prospective federal standard, and we have a California standard. Then, if we're going to regulate this under the Clean Water Act, we could have other state standards that haven't been developed yet. What target do you want these vendors to aim at?"

The cleaner the water that standards dictate, the more difficult it is for current technology to meet it. Once someone establishes a standard, how to meet it is a matter for the marketplace to decide.

Nutech O3 would inject ozone into ocean water as it's pumped into a ship's tanks. Severn Trent De Nora, a Houston-based water treatment company, does the same job by running an electrical current through ballast intake water to form sodium hypochlorite, said Rudy Matousek, manager of research and development.

Matousek said the shipping industry says it's interested in the technology, but most owners are paying lip service. Carriers are unwilling to make the investment in pollution-abatement technology until the government or the IMO requires it.

"Up until now, the industry has hid behind the idea that there is no demonstrated technology," Matousek said. If onboard treatment systems prove worthy, then owners have lost their last argument against regulation, and will have to pony up.

Nutech O3 and Severn Trent De Nora have installed demonstrator systems aboard ships. Matousek said his equipment is ready to test on a Jones Act tanker, but the owner has not let the system treat ballast water until the Coast Guard gives its blessing.

"This is serious money," Diorio said. "Systems will run up to \$1 million per ship. It's an investment the industry is willing to make, but we're looking for consistency. We want to avoid states changing their standards — this is an international issue."

Currently, the only IMO-approved management method is mid-ocean ballast exchange. Beginning in 2009, new ships will have to have treatment technology onboard. The organization is in the process of licensing products.

"The IMO convention was drafted in a way that allows countries to increase the standards," Diorio said. "There is nothing inappropriate with the United States saying we're going to start with the IMO standard, and increase it to whatever. We're OK with that, but we don't want the patchwork quilt of states doing things that are incompatible with a global standard."

During the summer congressional recess, Boxer's committee staff was considering compromises that could break the deadlock on the Senate floor, Diorio said. Still, there are only a few weeks left to approve ballast water legislation before the 110th Congress adjourns. "If I were a betting man, I don't think I would wager on this," Diorio said. "But there's always a chance." ♦

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