

Date of Hearing: April 20, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1312 (O'Donnell) – As Amended April 15, 2015

**SUBJECT:** Ballast water management

**SUMMARY:** Delays the implementation of interim and final performance standards for eliminating living organisms in ships' discharged ballast water. Specifically, **this bill:**

- 1) Deletes provisions requiring the person in charge of a vessel to employ at least one of the specified ballast water management practices.
- 2) Requires the State Lands Commission (SLC) to adopt regulations governing ballast water management practices for vessels arriving at a California port from a port outside of the Pacific Coast Region, as specified, and requires compliance with these regulations.
- 3) Changes the date, from 2016 to 2020, by which the SLC is required to deem an approved experimental ballast water treatment device to be in compliance with any future treatment standard adopted.
- 4) Changes the timing by which the person in charge of a vessel capable of carrying ballast water, that visits a California port, must submit ballast water reporting forms.
- 5) Requires the person in charge of any vessel that has a ballast water treatment system to submit a ballast water treatment technology reporting form.
- 6) Deletes current law that requires only vessels that discharge treated ballast in California to submit the ballast water reporting forms.
- 7) Delays implementation of interim performance standards for the discharge of ballast water from a scheduled phase-in that starts in 2016, to 2020 for all vessels.
- 8) Delays the implementation of the final performance standard for the discharge of ballast water of zero detectable for all organism size classes from January 1, 2020 to January 1, 2030.
- 9) Requires the SLC in consultation with State Water Resources Control Board, the United States Coast Guard, and others, to prepare (or update) and submit to the Legislature, a review of the results of ballast water treatment systems no less than 18 months before January 1, 2020 and January 1, 2030.
- 10) Extends the authority of the SLC to collect specified samples to ensure compliance with ballast water requirements to include biofouling.
- 11) Expands the records that the person in charge of a vessel subject to ballast water requirements must make available to the SLC.
- 12) Adds the management of biofouling on vessels to the enforcement authority conferred upon the SLC.
- 13) Defines a variety of terms.

14) Revises and recasts existing provisions and makes other technical and conforming changes.

**EXISTING LAW:**

- 1) Requires the master, owner, operator, or person in charge of a vessel carrying, or capable of carrying, ballast water, that operates in the waters of the state to take specified actions to minimize the uptake and release of non-indigenous species.
- 2) Requires the SLC, if an owner or operator of a vessel applies to install an experimental ballast water treatment system, and the SLC approves that application on or before January 1, 2016, to deem the system in compliance with any future treatment standard adopted, for a period not to exceed 5 years from the date that the specified interim performance standards would apply to that vessel.
- 3) Requires the SLC to adopt regulations, on or before January 1, 2008, that require an owner or operator of a vessel with ballast water capacity that operates in the waters of the state to implement an interim performance standard, beginning in 2016, for the maximum allowable thresholds for living organisms discharged in ballast water based on the size of the organism, capacity of the ship's ballast water retention, and the date of the ship's construction.
- 4) Requires the SLC to adopt regulations that require an owner or operator of a vessel with ballast water capacity that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable for all organism size classes by 2020.

**FISCAL EFFECT:** Unknown

**COMMENTS:** AB 1312 delays implementation of California's ballast water performance standards until 2020 to enable further research and development of treatment technologies that can meet California's standards. This delay also provides the SLC with time to adopt compliance assessment regulations that will give the shipping industry guidance on how conform to these regulations.

Non-indigenous aquatic plant and animal species can be transported to new ecosystems and regions through human activities. According to the SLC, shipping is the most significant vector for the transport and introduction of aquatic non-indigenous species, contributing to 79.5% of established aquatic non-indigenous species to North America and 74.1% across the globe. Once they are established, non-indigenous species can cause ecological, economic, and human health problems in the receiving environment.

Commercial ships transport organisms through two primary vectors: vessel biofouling and ballast water. Vessel biofouling occurs when organisms attach to the hard surfaces of the vessel, and are then transported to new environments that the vessel enters. Ballast water is sea water taken on, redistributed on, and discharged from large seagoing vessels for functions related to stability, maneuverability, and propulsion. More than 7,000 species are estimated to be moved around the world on a daily basis in ships' ballast water and each ballast water discharge has the potential to release over 21.2 million individual free-floating organisms.

The prevention of species introductions through the management of human activities, such as requirements related to biofouling and ballast water management, is considered the most protective and cost-effective way to address the non-indigenous species introduction.

To prevent the introduction of aquatic species through ballast water discharges, the Legislature enacted SB 497, (Simitian), Chapter 292, Statutes of 2006, the Coastal Ecosystems Protection Act (Act), which, among other things, required the SLC, on or before January 1, 2008, to adopt regulations that require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state, to implement interim and final performance standards for eradicating organisms in ballast water before it is discharged. The interim performance standards, originally applied starting in 2009, but through subsequent statutory changes now apply in either 2016 or 2018, depending on the size of the organism, the capacity of the ship's ballast water retention, and, the date of the ship's construction. The SLC adopted the interim performance standards in 2007 and the Act set a final performance standard for the discharge of ballast water of zero detectable living organisms for all organism size classes by 2020.

According to the SLC, vessels can comply with the California performance standards through methods including retention of all ballast water onboard the vessel (the most protective management strategy available); discharge of ballast water to an approved reception facility; or, use of a shipboard ballast water treatment system. While retention is the most protective ballast water management strategy, not all vessels can retain ballast water due to operational needs or safety concerns. The SLC reports that it conducted assessments of both shipboard and shore-based ballast water treatment technologies in 2007, 2009, 2010 and 2013 (per a requirement of the Act), and found that no ballast water treatment technologies were available at the time to meet the California performance standards.

Because of the SLC's previous findings on the availability of treatment technologies, the Legislature delayed the implementation dates for ballast water interim performance standards. In 2008, the legislature delayed implementation for new vessels with ballast water capacity of less than 5000 metric tons from January 1, 2009, to January 1, 2010. In 2013 it further delayed implementation for all vessels by an additional two to six years depending on when the vessel was constructed and the vessel's ballast water capacity. This bill proposes to delay the implementation of the interim performance standard to 2020, an eleven year delay from the earliest original implementation date, and to delay the final performance standard to 2026, a six year delay from the original implementation date.

Again in 2014, the SLC assessed and reported on the availability of ballast water treatment technologies that can meet the California ballast water discharge performance standards. The report reviewed both shore-based and shipboard methods of treatment and found that shore-based treatment facilities able to kill or remove organisms in ballast water currently still do not exist in the United States. The report also stated that shipboard ballast water treatment systems have not demonstrated the ability to meet the California performance standards. The SLC argues that the lack of options available to the shipping industry with which to comply with California's performance standards at this time is an obstacle to implementation of the standards.

The SLC found that shipboard ballast water treatment systems are available for purchase from vendors. However, they report that no systems are available that have demonstrated the ability to meet the California performance because no system has demonstrated efficacy for all of the standards; there are no suitable methods to analyze ballast water samples; and, there is a lack of sampling and compliance protocols for determining which systems can meet the standards. The SLC states that they are promulgating compliance assessment protocols, slated to be adopted by January 1, 2017, which are intended to resolve the questions about accurate testing procedures.

By promulgating compliance assessment protocols in advance of the implementation dates of the performance standards, industry will have years to ensure systems under consideration will meet the standards.

For shore-based ballast water reception and treatment facilities, none specifically designed to receive and remove or kill non-indigenous species in ballast water are currently available in California or the U.S. This is largely because collaborative efforts among international, federal, and state (including California) regulators and the shipping industry have focused on the use of shipboard ballast water treatment systems as the preferred method to enable compliance with state, federal and international discharge standards.

While the SLC and the author introduced this bill in order to enable further development of treatment technologies, previous delays of the standards have not resulted in the development of these technologies.

*Double referral:* This bill passed out of the Assembly Environmental Safety and Toxic Materials Committee on April 14, 2015, with a 7-0 vote.

*Previous legislation:* SB 814 (Committee on Natural Resources and Water), Chapter 472, Statutes of 2013, delayed implementation of ballast water performance standards for vessels that carry, or are capable of carrying, ballast water into the state by two to six years, depending on when the ship was constructed and the vessel's ballast water capacity.

SB 935 (Committee on Environmental Quality), Chapter 550, Statutes of 2012, delayed the date for which the SLC must approve a vessel operator's application to install an experimental ballast water treatment from January 2008 to January 2016.

SB 1781(Committee on Environmental Quality), Chapter 696, Statutes of 2008, delayed implementation of ballast water performance standards for new vessels with ballast water capacity less than 5000 metric tons from January 1, 2009, to January 1, 2010.

SB 497 (Simitian), Chapter 292, Statutes of 2006, enacted the Coastal Ecosystems Protection Act, which established interim and final performance standards for the discharge of ballast water from large commercial ships, required interim standards, which identified a range of thresholds for living organisms by class size, to begin to take effect January 1, 2009, and required the final standards, a "zero detectable living organisms" standard for all organism size classes, to take effect January 1, 2020.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

State Lands Commission (Sponsor)  
California Association of Port Authorities  
Cruise Lines International Association, Inc.  
Maersk, Inc.  
Pacific Merchant Shipping Association

### **Opposition**

None on file

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