

NEW BALLAST WATER REGULATION CONCERNS PORT OF SANTOS USERS AND IS SUSPENDED BY ANTAQ

SHIPS WERE REQUIRED TO PRESENT A CERTIFICATE FOR DOCKING, BUT THE HIGH COST OF THE DOCUMENT WAS CRITICIZED, LEADING TO COMPLAINTS AND THE SUSPENSION OF THE RULE.



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Since the end of last month, all ships operating at the Port of Santos were required to present a certificate of compliance with international ballast water disposal regulations. A remote monitoring system using artificial intelligence was approved by the Port Authority for this purpose. However, many complaints were made by users, citing overlapping regulations, excessive bureaucracy, and high costs for compliance. As a result, the National Waterway Transport Agency (Antaq) responded to a request from shipping representatives and suspended the rule.

Prior to the new Port Authority rule, ship inspections were carried out randomly, based on information provided by ship captains. The new system was designed to track all ships for more efficient control, according to the Operations Directorate of the state-owned company.

So far, only one company, Balance Water Central (BWC), has been authorized by the Port Authority for this purpose. BWC will certify compliance with the regulations using information provided by the ship, such as GPS coordinates, with tools like Artificial Intelligence, GPS, and other technology to verify if vessels discharged ballast water in permitted areas or adopted the filtration system, as mandated by the International Maritime Organization (IMO) and in accordance with Brazil's NORMAM 401.

However, this service, mandated by the Port Authority, adds additional costs to foreign trade operations. If not contracted, vessels would be prohibited from docking at the Port of Santos under the rule. The state-owned company has eased the rule, stating that ships deemed "non-compliant" would still be allowed to dock at the port if they present documentation from BWC.

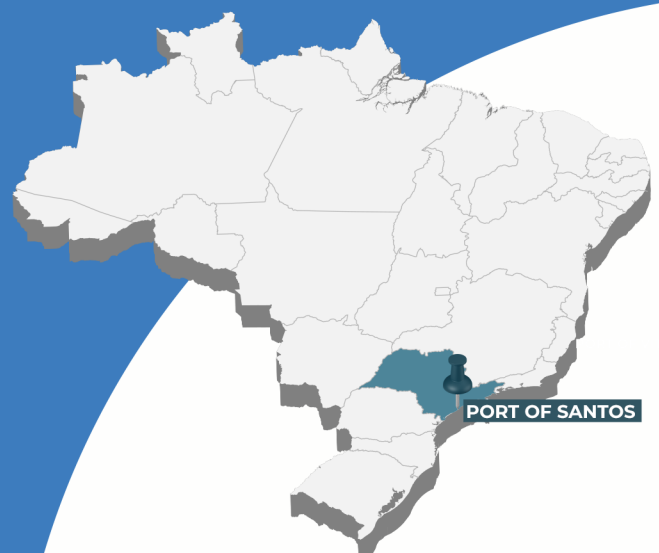
"We have already sent letters to the Directorate of Ports and Coasts (DPC), the National Waterway Transport Agency (Antaq), and the Port Authority itself. We are arguing that there is already control for this, under two regulations: RDC 72/2009 by the National Health Surveillance Agency (Anvisa) and NORMAM 401 by the Brazilian Navy. Another layer of control is unnecessary," said José Roque, executive director of the São Paulo Maritime Navigation Agencies Union (Sindamar).

According to Roque, certificates issued by BWC cost US\$1,390. Simple calculations show that the requirement would represent a cost of US\$50 million annually, given the large flow of ships heading to the Port of Santos. "The accredited company charges a high fee, and we believe the Port Authority should bear this cost. As of now, only this company is accredited, creating a monopoly," Roque added.

The new rule was also reported to Antaq by the National Transatlantic Navigation Center (Centronave) and the Brazilian Coastal Shipping Operators Association (ABAC). The regulatory agency responded with an injunction, suspending the new rule imposed by the Port Authority.

"I emphasize that the serious harm to the public interest caused by APS's rule has direct interference in Brazilian Navy legislation and negative repercussions for both the national and international maritime community, as evidenced by the concerns raised by the International Chamber of Shipping (ICS)," said Antaq's director, Wilson Lima Filho.

The executive also pointed out that there was no adjustment period for the rule, as is usually the case with Brazilian Navy legislation affecting the maritime community. Additionally, besides the "violation" of NORMAM-401/DPC, there are indications that the Port Authority may have created an unauthorized fee, which should be jointly reviewed by Antaq's Superintendence of Supervision and Regional Coordination Units (SFC) and SRG, to assess whether it violated Antaq resolutions.





LEGISLATION

The International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) aims to prevent, minimize, and eliminate the risks of introducing harmful aquatic organisms and pathogens into the marine environment through the discharge of ballast water and sediments from ships. It establishes rules for ships to adopt efficient management measures, such as the installation of onboard treatment systems. The convention text was adopted by the International Maritime Organization (IMO) in 2004 in London and ratified by the Brazilian National Congress in 2010. In Brazil, NORMAM 401 sets the rules for ballast water management and penalties for non-compliance. There are two options for ballast water discharge: D1, which mandates discharge in ocean waters, or D2, which requires ballast water to be treated on the ship before discharge.

According to the Brazilian Navy, the IMO Convention mandates that oceanic ballast exchange, known as the D1 standard, must occur at least 200 miles from the nearest land in waters with a minimum depth of 200 meters, or at 50 miles from the nearest land in areas where the depth is 200 meters or more. When the ship complies with the D2 standard, known as the performance standard, it generally installs an onboard treatment system, typically consisting of a filter and ultraviolet lamps, or a filter combined with an electrochlorination process.

BALLAST WATER

According to the Santos Port Authority, the new rule was created to address the global problem of bioinvasion by exotic species, which threatens marine life and has already caused severe environmental and social damage, including in Brazil, where it affects subsistence fishing in coastal populations.

Ballast water is essential for navigational safety, particularly when ships are lightly loaded. It is used to maintain the ship's stability by filling tanks located in the ship's holds. The amount of ballast water required depends on the cargo load: less cargo means more ballast water. Once the ship is fully loaded, the ballast water is discharged.

However, ships carrying sewage, toxic materials, and even species from one region of the world to another in their ballast water can cause serious environmental and public health problems. Many of these species are endemic, have no natural predators, and can quickly reproduce, outcompeting native species. Pathogenic organisms such as bacilli can also be carried from one region to another along with ballast water discharged into the sea.

The bioinvasion problem is growing because global shipping moves about 10 billion tons of ballast water annually. In Brazil, this figure reaches 80 million tons/year, as 95% of foreign trade is conducted by sea.