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PORT OF SANTOS RESUMES INSPECTION OF BALLAST WATER DISCHARGE BY SHIPS



Controversial rule reinstated
after court decision



Another twist in the Port of Santos ballast water case. The Santos Port Authority has resumed enforcement of the rule requiring ships to present a certificate of compliance with international ballast water discharge inspection standards before docking. The measure follows a decision by Justice Teodoro Silva Santos of the Superior Court of Justice (STJ), who granted an injunction in favor of the port authority.

The ruling upholds the injunction filed by the state-owned company against a decision by the National Waterway Transport Agency (Antaq), which had declared the rule invalid. The regulatory body argued that the Santos Port Authority had exceeded its powers, claiming it lacked jurisdiction to regulate the matter.

In Brazil, NORMAM 401 establishes the standards for ballast water management and the penalties for noncompliance. Ships have two options: D1 – to discharge ballast water in oceanic waters, at least 200 nautical miles from the coast in areas with a minimum depth of 200 meters, or at 50 miles from the coast provided that the depth is also equal to or greater than 200 meters. D2 – the performance standard, usually met through the installation of onboard treatment systems. The most common methods combine filters with ultraviolet lamps or filters with an electrochlorination process.

Before the new rule by the Port Authority, vessel inspections were carried out by sampling, based on information provided by ship captains. Under the reinstated regulation, all vessels must be monitored.

The issue, however, is that only one company has been accredited by the port authority to perform this monitoring. In practice, certification costs an average of about US\$ 1,500 per vessel — which users argue constitutes regulatory overreach.

The accredited company is responsible for verifying compliance based on information provided by ships, such as geographic coordinates, using artificial intelligence, GPS, and other technologies to confirm whether ballast water was discharged in authorized areas or whether the filtration systems required by the International Maritime Organization (IMO) and Brazil's NORMAM 401 were used.

According to the Port Authority, the rule is essential for local environmental protection, noting that one-third of vessels failed to meet legal obligations while the regulation was in force, highlighting shortcomings in existing inspection mechanisms. ***“The inspections prevent environmental damage caused by invasive and harmful species to marine life and the environment. For now, no fines will be issued, allowing shipowners time to comply with the regulation,”*** said Sidnei Aranha, Superintendent of Environment at the port authority.

Aranha explained that ships, by bringing residues such as sewage, toxic materials, or exotic species in their ballast water, can cause serious environmental and public health problems. Many of these animal and plant species are endemic, have no natural predators, and can reproduce quickly, competing with native species.

Bacilli and other forms of pathogenic organisms can also be transported from one region to another through discharged ballast water. The bioinvasion issue is growing because global shipping moves around 10 billion tons of ballast water per year. In Brazil alone, the figure reaches 80 million tons annually, as 95% of the country's foreign trade is conducted by sea.

Details of the rule

Prices charged by the sole company authorized to provide the mandatory service at the Port of Santos:

- US\$ 1,700 per certificate for services requested by non-member maritime agencies;
- US\$ 1,390 per certificate for services requested by maritime agencies that are members of the Association of Shipping Agencies.

Documents required for inspection:

1. **Annex C** – Ballast Water Management Methods, containing a valid/approved international certificate;
2. **Appendix II** – International Convention for the Control and Management of Ships' Ballast Water and Sediments;
3. **Ballast Water Record Book Report;**
4. **International Ballast Water Management Plan Certificate;**
5. **Ballast Water Management Plan – Complete document;**
6. **Manufacturer's Certificate of the Ballast Water Treatment System (BWTS);**
7. **Ballast Water Report – Annex B – Standard format from the Port Captaincy.**

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