



Lake Carriers' Association

The Greatest Ships on the Great Lakes

JAMES H. I. WEAKLEY, PRESIDENT

440-333-9995 • weakley@lcaships.com

October 29, 2012

Docket No. USCG-2004-19621

Via Federal eRulemaking Portal: <http://www.regulations.gov/>

Docket Management Facility (M-30)

U.S. Department of Transportation

West Building Ground Floor, Room W-12-140

1200 New Jersey Avenue SE

Washington, DC 20590-0001

Dear Sir or Madam:

**Dry Cargo Residue Discharge in the Great Lakes
Federal Register, Volume 77, Number 146
Monday, July 30, 2012, Pages 44528-44544**

Lake Carriers' Association ("LCA") represents 17 American companies that operate 57 U.S.-flag vessels ("lakers") on the Great Lakes and carry the raw materials that drive the nation's economy: iron ore and fluxstone for the steel industry, aggregate and cement for the construction industry, coal for power generation, as well as salt, sand and grain. Collectively, our members can transport more than 115 million tons of dry-bulk cargo per year and employ more than 1,600 men and women, all of whom are U.S. citizens or legally admitted aliens, and provide annual wages and benefits of approximately \$125 million. In turn, the cargos our members carry generate and sustain more than 103,000 jobs in the eight Great Lakes and have an economic impact of more than \$20 billion.

Summary of Comments

1. U.S.-flag shipping on the Great Lakes is a major contributor to the region's and nation's economic well-being. The cargos our members carry support more than 100,000 jobs in the eight Great Lakes states.
2. It is appropriate that the practice of discharging dry cargo residue (DCR) be allowed to continue on the Great Lakes. Years of study have determined the amounts in question are slight and that cargos such as iron ore, coal, limestone, cement, salt, sand and grain are non-hazardous and non-toxic and so pose no threat to the environment or general public.
3. The measures and equipment already voluntarily employed on our members' vessels illustrate the industry's commitment to minimizing DCR, and it is simply good business to deliver as much of the cargo as possible.
4. The SNPRM poses some operational challenges as currently written. What constitutes "broom clean" will be determined in part by weather conditions. A "shovel clean" condition will be easier to consistently attain and will fully protect the environment. What constitutes "minimizing" DCR in the tunnels will differ depending on how often a vessel changes cargos.

20325 Center Ridge Rd., Ste. 720 ♦ Rocky River, OH 44116 ♦ Fax: 440-333-9993 ♦ www.lcaships.com

The Association Representing Operators of U.S.-Flag Vessels on the Great Lakes Since 1880

AMERICAN STEAMSHIP COMPANY ♦ ANDRIE, INC. ♦ ARMSTRONG STEAMSHIP COMPANY ♦ BELL STEAMSHIP COMPANY
CENTRAL MARINE LOGISTICS, INC. ♦ GRAND RIVER NAVIGATION COMPANY, INC. ♦ GREAT LAKES FLEET/KEY LAKES, INC.
INLAND LAKES MANAGEMENT, INC. ♦ THE INTERLAKE STEAMSHIP COMPANY ♦ LAKES SHIPPING COMPANY
LAKE MICHIGAN CARFERRY SERVICE ♦ PERE MARQUETTE SHIPPING ♦ PORT CITY MARINE SERVICES ♦ PORT CITY STEAMSHIP SERVICES
SOO MARINE SUPPLY, INC. ♦ UPPER LAKES TOWING COMPANY, INC. ♦ VANENKEVORT TUG & BARGE INC.

5. Our members already have procedures and policies that are de facto “management plans” for DCR. However, the mechanics of loading and unloading dry-bulk cargos do not differ greatly from vessel to vessel, so we believe LCA can combine them into a Management Plan that can be applied to all member vessels.
6. The Coast Guard’s decision to not regulate docks but rather require vessel owners/operators to “coordinate” with facilities to reduce DCR has placed responsibility on our members, but no authority to implement the necessary measures or equipment modifications. The Coast Guard has taken this position because its inspection infrastructure is more geared toward vessels. We note this vessel focus did not stop Congress from giving the Coast Guard oversight of security at docks. We believe the Coast Guard should also revisit this decision because it assumes a relationship that does not really exist. The shipper decides where our members load and discharge cargo. Our members have few direct dealings with dock owners and operators.
7. Moving massive amounts of dry-bulk cargo on self-unloading vessels is unique to the Great Lakes. We are concerned that the frequent rotation of Coast Guard personnel will lead to inconsistent interpretation and application of the Final Rule. Either a follow-up NVIC or manual should provide more specifics on what constitutes broom/shovel clean and minimization.
8. The lack of a provision pre-empting states’ laws and regulations has the potential to lead to a patchwork of differing requirements, unnecessarily so, as these Federal regulations will fully protect the environment and so should be applied consistently throughout the U.S. waters of the Great Lakes.

Full Comments

The U.S.-Flag Great Lakes Fleet Is A Major Contributor To The Region’s and Nation’s Economic Well-Being: Lake Carriers’ Association’s members move massive amounts of dry-bulk cargo on the Great Lakes. Even with the country yet to fully emerge from the recession, our members carried almost 94 million tons of iron ore, coal, limestone, cement, salt, sand and grain in 2011. The table below lists cargo volumes for the period 2006-2011.

U.S.-Flag Dry-Bulk Cargo Carriage: 2006-2011 and 5-Year Average (net tons)

| COMMODITY | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | AVERAGE 2006-2010 |
|----------------------------------|--------------------|--------------------|--------------------|-------------------|-------------------|-------------------|----------------------|
| IRON ORE | | | | | | | |
| Direct Shipments..... | 45,850,298 | 45,049,721 | 45,329,607 | 23,271,702 | 39,663,547 | 44,443,975 | 39,832,975 |
| Transshipments | 3,121,814 | 2,156,662 | 1,893,887 | 759,385 | 2,364,871 | 2,780,768 | 2,059,324 |
| Total – Iron Ore | 48,972,112 | 47,206,383 | 47,223,494 | 24,031,087 | 42,028,418 | 47,224,743 | 41,892,299 |
| COAL (By Lake of Loading) | | | | | | | |
| Lake Superior..... | 17,180,114 | 16,692,347 | 17,962,580 | 15,427,708 | 15,847,574 | 12,954,188 | 16,622,065 |
| Lake Michigan..... | 3,161,804 | 2,718,874 | 3,253,001 | 1,996,793 | 2,017,395 | 3,166,372 | 2,629,574 |
| Lake Erie..... | 5,018,195 | 5,759,408 | 3,756,042 | 3,250,387 | 3,674,897 | 4,118,767 | 4,291,786 |
| Total - Coal | 25,360,113 | 25,170,629 | 24,971,623 | 20,674,888 | 21,539,866 | 20,239,327 | 23,543,425 |
| LIMESTONE | 29,489,410 | 25,966,057 | 23,632,070 | 17,067,232 | 20,410,266 | 21,434,839 | 23,313,007 |
| CEMENT | 3,997,703 | 3,602,488 | 3,294,071 | 2,865,323 | 2,782,259 | 2,817,846 | 3,308,369 |
| SALT..... | 1,126,862 | 1,241,297 | 1,224,769 | 1,260,901 | 1,391,239 | 1,452,134 | 1,249,014 |
| SAND..... | 429,411 | 449,474 | 359,191 | 262,805 | 225,593 | 332,172 | 345,295 |
| GRAIN | 356,143 | 404,923 | 247,597 | 304,507 | 306,872 | 283,200 | 324,009 |
| TOTAL..... | 109,731,754 | 104,041,251 | 100,952,815 | 66,466,743 | 88,684,513 | 93,784,261 | 93,975,418 |

America's economic well-being depends on our members being able to move cargo efficiently.¹ The iron ore is the primary ingredient in the steelmaking process. The coal fuels powerplants throughout the Great Lakes basin. The limestone represents both aggregate, the foundation of the region's construction industry, and fluxstone, a purifying agent charged into blast furnaces. Cement is again a key resource for the construction industry. The salt deices wintry roads. The sand has many industrial applications. The grain is ground into flour.

Those cargos generate more than 103,000 jobs in the eight Great Lakes states:²

| State | Jobs Tied to U.S.-Flag Lakes Shipping |
|--------------|---------------------------------------|
| Illinois | 5,356 |
| Indiana | 39,903 |
| Michigan | 23,485 |
| Minnesota | 4,309 |
| New York | 305 |
| Ohio | 23,334 |
| Pennsylvania | 761 |
| Wisconsin | 5,589 |
| Total | 103,042 |

As impressive as those employment figures are, it must be noted they are based on 2010 cargo levels, and many segments of the economy were still in recession. Those totals will only grow as our economy recovers from this deep recession.

Our members have made a long-term commitment to Great Lakes shipping. During the winter of 2011/2012 they invested more than \$75 million in maintaining and modernizing their vessels and will spend tens of millions more this coming winter.

This year has seen the fleet grow by two vessels. In May, the newly-constructed integrated tug/barge unit KEN BOOTHE, SR./LAKES CONTENDER was launched in Erie, Pennsylvania, and entered the iron ore, coal and limestone trades. In October, a tug/barge unit that had formerly been employed in the Gulf began a new career in the Lakes dry-bulk trades as the DEFIANCE/ASHTABULA.

Discharging Minute Quantities of Dry Cargo Residue Poses No Threat To the Great Lakes

Environment: LCA and its members have fully supported and cooperated with the U.S. Coast Guard as it studied the environmental impacts of discharging DCR residue in the Great Lakes. These investigations have confirmed that the DCR discharged is not toxic or hazardous to the environment or general public.

The volumes involved are truly minute. The *Tiered Draft Environmental Impact Statement (DEIS): U.S. Coast Guard Rulemaking for Dry Cargo Residue Discharges in the Great Lakes* released in November 2011 states on page 3-4 that deposition rates range from "less than one pound per acre to 6.5 pounds per acre per year." To put that in perspective, shipments of dry-bulk cargos in vessels of all flags on the Lakes can total more than 172 million tons per year:

¹ In its February 2009 report *Great Lakes Navigation System: Economic Strength to the Nation*, the U.S. Army Corps of Engineers found that Great Lakes shipping annually saves its customers \$3.6 billion in transportation costs when compared to the next least costly mode of transportation.

² Source: *The Economic Impacts of the Great Lakes-St. Lawrence Seaway System*, Martin Associates, October 2011.

**GREAT LAKES DRY-BULK COMMERCE
CALENDAR YEARS 2006-2011 AND 5-YEAR AVERAGE**
(net tons)

| COMMODITY | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | AVERAGE 2006-2010 |
|-------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|
| IRON ORE* | | | | | | | |
| From Lake Superior | 45,635,055 | 43,846,005 | 45,965,629 | 23,630,583 | 41,893,085 | 48,593,186 | 40,194,071 |
| From Lake Michigan | 4,505,150 | 4,877,479 | 5,260,006 | 4,298,566 | 3,883,685 | 3,665,692 | 4,564,977 |
| From Lake Erie | 3,121,814 | 2,156,662 | 1,893,887 | 759,385 | 2,364,871 | 2,780,768 | 2,059,324 |
| From Eastern Canada..... | 9,737,893 | 9,375,654 | 8,017,319 | 3,863,482 | 6,256,969 | 6,314,906 | 7,450,263 |
| TOTAL – IRON ORE | 62,999,912 | 60,255,800 | 61,136,841 | 32,552,016 | 54,398,610 | 61,354,552 | 54,268,635 |
| COAL | | | | | | | |
| From Lake Superior | 22,683,590 | 21,763,518 | 24,054,469 | 19,172,349 | 19,151,649 | 15,198,152 | 21,365,115 |
| From Lake Michigan | 3,578,388 | 3,561,601 | 3,350,732 | 2,209,971 | 2,609,045 | 3,795,445 | 3,061,947 |
| From Lake Erie | 15,525,475 | 13,935,419 | 12,385,289 | 8,492,111 | 10,221,452 | 8,622,519 | 12,111,949 |
| TOTAL – COAL..... | 41,787,453 | 39,260,538 | 39,790,490 | 29,874,431 | 31,982,146 | 27,616,116 | 36,539,011 |
| LIMESTONE | | | | | | | |
| From U.S. Ports | 30,908,502 | 27,961,091 | 25,691,214 | 18,611,577 | 22,331,486 | 23,121,059 | 25,100,774 |
| From Canadian Ports..... | 8,069,219 | 6,040,375 | 6,676,299 | 4,892,555 | 5,548,687 | 5,032,583 | 6,245,427 |
| TOTAL – LIMESTONE .. | 38,977,721 | 34,001,466 | 32,367,513 | 23,504,132 | 27,880,173 | 28,153,642 | 31,346,201 |
| SALT | 9,726,216 | 8,892,084 | 11,425,842 | 12,611,308 | 8,940,502 | 10,879,102 | 10,319,190 |
| CEMENT..... | 6,047,303 | 5,671,762 | 5,036,915 | 4,016,999 | 4,039,493 | 4,019,675 | 4,962,494 |
| GRAIN | 13,027,667 | 11,135,605 | 9,284,286 | 9,393,810 | 10,860,043 | 10,544,540 | 10,740,282 |
| TOTAL..... | 172,566,272 | 159,217,255 | 159,041,887 | 111,952,696 | 138,100,967 | 142,567,627 | 148,175,813 |

There are a number of reasons that so little DCR is discharged in the Great Lakes. First and foremost, our members are paid to deliver cargo, not wash it overboard. It's not good business to shortchange your customers. That's why virtually all of the practices and equipment described in the SNPRM are already employed to varying degrees by our members. In fact, one can make a very convincing argument that the Coast Guard and the Great Lakes shipping industry have already met Congress' requirement that regulations governing the discharge of dry bulk cargo residue on the Great Lakes "appropriately balance the needs of maritime commerce and environmental protection."³ The shipboard measures and systems currently employed by our members allow for safe and efficient operation and result in amounts of DCR so slight that the Coast Guard determined the highest track line DCR density (coal on Lake Erie) was equivalent "to approximately three cups of coal being evenly distributed over a football field."

Measures and Equipment Already Employed Illustrate Industry's Commitment to Minimizing Dry Cargo Residue: The Tiered DEIS lists a number of control measures that are effective and commonly used on vessels. They include:

³ Legislative conference report accompanying the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108-293).

- Enclosed Conveyor (top of conveyor covered)
- Troughed Conveyors
- Belt Skirting
- Belt Alignment
- Belt Scrappers
- Water/Mist Sprays
- Capacity Indicators
- Communications among crew members and with docks
- Training of Crew
- Broom and Shovel
- Cargo Hold Vibrators
- Careful Gate Operation

As stated before, minimizing DCR is good business, hence the above are generally commonplace in the industry and have been for quite some time. Some are not necessarily fleetwide. Cargo hold vibrators, for example, are employed on vessels that carry “sticky” cargos such as certain types of coal, agricultural lime, sand and salt. Cargo hold vibrators would serve no purpose on vessels dedicated to carrying free-flowing cargos such as taconite pellets.

A properly aligned belt does help minimize DCR, but there’s another reason to keep the system finely tuned. Improper alignment causes belts to wear out prematurely and the replacement cost is not insignificant. A complete replacement of an unloading boom belt can cost as much as \$100,000. A complete replacement of a tunnel belt can cost as much as \$400,000. We grant that complete replacements are infrequent, but even splicing in a new section costs anywhere from \$50,000 to \$100,000. It is for this reason that belts are carefully maintained and serviced during the shipping season.

Communication between crew members and between the vessel and the dock crew is frequent. If necessary for the vessel to shift, the dock is informed before winching the boat up or down the dock.

Training and shoveling DCR back into the hold or onto the belts are a safety function as well as a DCR minimization tool.

The Tiered EIS lists enclosing the conveyor boom as commonly employed, and defines that as “top of conveyor covered.” Some vessels registered with LCA have “covered” their booms to this degree, but there are engineering realities that must be factored into the decision. Most unloading booms are 250 feet long; some stretch as much as 280 feet. In some instances, the additional weight would require that the boom be “de-rated,” which would reduce the amount of cargo that can be discharged at one time. One member estimates that covering a boom could double unloading times on some vessels and questions the value in terms of DCR reduction, noting that properly adjusted scrapers and an effective wash box greatly reduces the carry-back on the underside of the boom.

An entirely enclosed boom, one in which the belt, rollers and all supports are encased in a round or rectangular structure would require a complete redesign of the unloading booms, removal of existing booms, and replacement with newly constructed booms. A fully enclosed boom would likely be very heavy, which would result in longer discharge times, and access to belts and rollers for maintenance and replacement would be very difficult. There would also be issues with wind resistance, skewing and luffing. Given that the Coast Guard has found that DCR volumes are so minimal, a fully enclosed unloading boom is unnecessary.

Enclosed conveyors might have more application at loading docks, but the SNPRM specifically does not address shore facilities, a shortcoming we will address later.

The SNPRM discusses other measures employed on vessels, but there are reasons they are less frequently implemented. For example, extra skirting and flanges have been installed on vessels that carry sugar stone, a type of limestone about 6 inches in diameter that could injure a crew member if it bounced off a moving belt, but these additional measures are unwarranted on vessels dedicated to other cargos.

The piping on some boats does allow for sumping DCR and tunnel washwater back onto the unloading belt and discharging them along with cargo, but opportunities are limited by cargo type and customer preference. The cargo has to be somewhat porous or absorbent, as it is the cargo that traps the water and holds it through the loop system. Then the customer must be willing to accept watery cargo, and few do. Most will not allow water added to the cargo.

The SNPRM recommends not shutting down the conveyor belt when it has cargo on it. That is already standard operating procedure. The conveyor system is only shut down in an emergency. Restarting a belt hundreds of feet long with tons of cargo on it strains the system and could burn out motors.

The SNPRM also recommends mooring the vessel directly against the shoreside facility so that the unloading boom need not be fully extended. This too is commonplace, but only to the degree possible. In many instances, lack of water depth alongside the dock, either natural or the result of inadequate dredging, precludes the vessel from coming fast alongside. In fact, there are on the Lakes what industry calls “work boat docks” (pictured below). The water alongside the dock is so shallow that crewmembers must row to shore, pulling the vessel’s mooring cables behind them.



Positioning the unloading boom as close as possible to the receiving stockpile is again the industry standard as it is important that there be as little breakage as possible. This is particularly true for iron ore pellets.

The SNPRM Poses Some Operational Challenges As Currently Written: The SNPRM proposes that vessel decks be in a “broom clean” condition when the vessel is underway. Broom clean is defined as “a condition in which the vessel’s deck shows that care has been taken to prevent or eliminate any visible concentration of dry bulk cargo residues, so that any remaining dry bulk cargo

residues consist only of dust, powder, or isolated and random pieces, none of which exceeds 1 inch in diameter.”

The goal of this provision is standard practice. Spilled cargo is shoveled back into the hold to the degree possible. There are, however, constraints. It is unsafe to have a crewmember working under or close to a loading rig when it is in operation. To delay the vessel after every load or discharge to finish sweeping up the deck before getting underway is not necessary to achieve the goals of this rulemaking. It should be the Master’s decision if the anticipated weather conditions will allow the vessel to proceed and have a crew member(s) finish the clean-up at another time.

The importance of minimizing delays is two-fold. First, these vessels have operating costs that can approach \$5,000 per hour. Depending on the trade route(s) served, these vessels haul anywhere from 50 to 130 cargoes per season. If achieving broom clean adds another hour to each load and discharge, the increased cost will be significant.

Second, the shipping season on the Great Lakes is not year-round. Our members have about 10 months to meet their customers’ annual requirements. If a vessel loses 100-plus hours getting the decks broom clean, that will result in carrying less cargo over the course of a season.

For example, one hundred hours is enough time to load 65,000 tons of iron ore in Superior, Wisconsin, carry it to Detroit, Michigan, and unload it at the steel mill on Zug Island. One hundred hours is enough time move four 25,000-ton coal cargoes from Toledo, Ohio, to the steel mill in Ecorse, Michigan. If every vessel in the fleet loses 100 hours achieving broom clean, a million or more tons will be left at the loading docks.

This concern is easily addressed. The term “broom clean” should be replaced with “shovel clean.” The purpose of this SNPRM is to minimize DCR and using shovels crewmembers can eliminate any visible concentration of dry bulk cargo residues, so that any remaining dry bulk cargo residues consist only of dust, powder, or isolated and random pieces, none of which exceeds 1 inch in diameter. Years of study agree that the amounts left on deck are de minimis, as corroborated by the photo below:



If the Coast Guard retains the term shovel clean, the SNPRM recognizes that other methods can be used to achieve this condition. On page 44533, the SNPRM states:

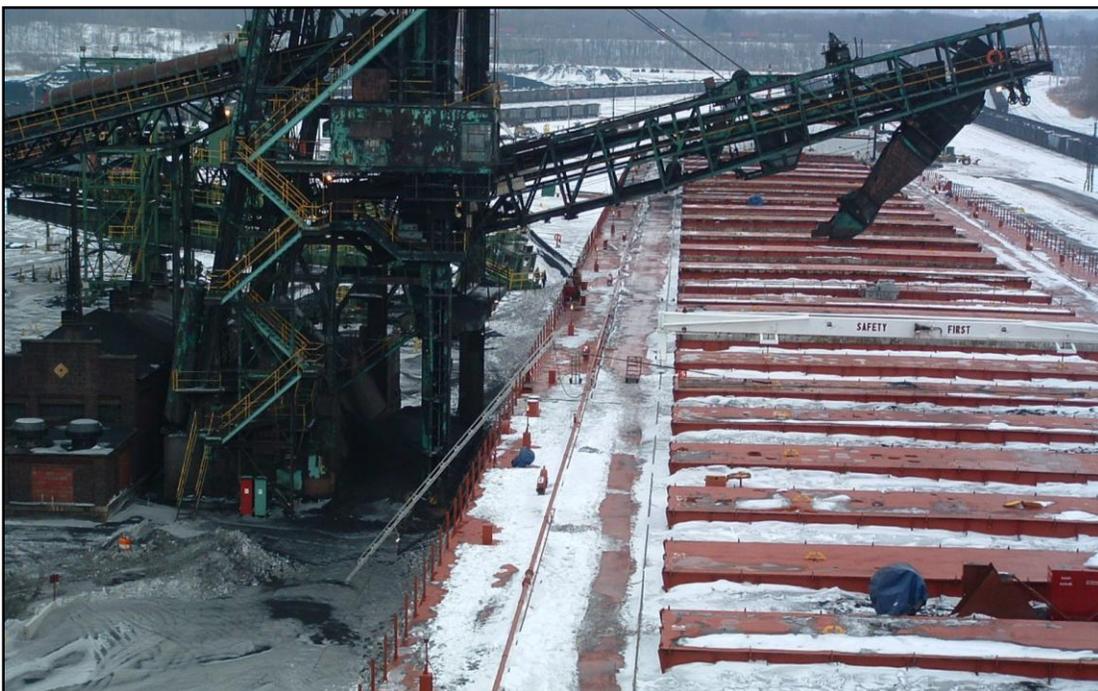
Discharge minimization would include keeping the vessel's deck in a broom clean condition. All vessels should be able to achieve the broom clean standard on deck, by sweeping spilled cargo back into the holds before they are sealed, **if not by some other method** (emphasis added).

The phrase "if not by some other method" clearly allows for shovel clean to substitute for broom clean as long as the required condition can be attained. Also, spilled cargo has to be shoveled back into the holds. The hatch coamings are typically 18-24 inches high; it's physically impossible to sweep cargo residue on deck back into the holds.

The Final Rule must recognize that vessels load and discharge in the rain. It would be pointless to broom clean the decks under those conditions. Shoveling pellets or lumps of coal back into the hold during the rain is feasible, but Mother Nature has taken charge of washing down the deck.

As the photograph below illustrates, the shipping season begins and ends in winter. The Final Rule must make a provision for when the deck is snow- or ice-covered, otherwise crewmembers will have to use the fire hose to clear the deck with hot water, which means most of the DCR would go into the water. Also, the energy used to heat that much water would offset the environmental benefit of loosening the snowpack or ice to the point where it is possible to shovel the traces of DCR back into the holds. Again, it should be the Master's decision if conditions make shovel cleaning the deck feasible.

It appears the SNPRM acknowledges that cargo is loaded and discharged in different environments. On pg. 44536 the Coast Guard states it assumes that an "Able Body Seaman would be tasked with maintaining the broom clean standard ... during loading and unloading operations to the **best of the AB's ability under current vessel conditions**" (emphasis added). We grant that it would be difficult to define "the best of an individual's ability under varying vessel conditions," but hope Coast Guard inspectors will agree what is possible on a summer day is unachievable with snow falling and temperatures below freezing.



The broom clean standard does not apply in the tunnels under the cargo hold. Instead, the SNPRM requires that the vessel operator “minimize” DCR and defines minimize as “the reduction, to the greatest extent practicable, of any dry bulk cargo residue discharged from the vessel.”

LCA members have taken a number of steps to minimize cargo spillage in the tunnels. Conveyor belts are troughed and skirted. Scrappers have been installed. Many vessels are equipped with capacity indicators that warn when too much cargo is on the belt. Air gates have been replaced with hydraulic gates.

On pg. 44532 the SNPRM opines that “within tunnels, large pieces of DCR that remain after unloading should be easy to recover while the vessel is underway, and to place on the conveyor belt with the rest of the cargo during the vessel’s next unloading.” This is undesirable from a vessel maintenance perspective. Cargo residue that resides under the belt and around the rollers will cause premature wear. Furthermore, the areas where tunnel DCR can be sumped often require the vessel to divert from the most direct route to the next port, so it ultimately is more efficient to discharge the cargo rather than alter course to allow for sumping of DCR.

Another problem with shoveling DCR back onto the conveyor belt and discharging along with the next load is that it’s really only an option on a vessel dedicated to one cargo, and there are just a few in the fleet. Most of the vessels move between iron ore, coal and limestone on a regular basis. For example, in August 2012 one vessel carried four iron ore cargos, three limestone loads, and one coal cargo. Another vessel in short-haul trades carried four coal cargos, two stone loads, two sand cargos, and one each of slag and petroleum coke.

The reality is steelmakers don’t want coal mixed in with iron ore and power plants don’t want taconite pellets sprinkled in with steam coal, so shoveling DCR back onto the belt is not automatically an option.

Even vessels that repeat cargos may not always be able to discharge the DCR along with the next cargo. There are different types of iron ore with different chemical properties. Steelmakers will not want their stockpiles contaminated. This is also true with limestone - aggregate, fluxstone and chemical limestone are distinctly different products and contamination is again an issue.

In short, opportunities to shovel DCR back on the belt and discharge it along with the next cargo will be somewhat limited and vary significantly from vessel to vessel. The current practice of sumping tunnel DCR will have to continue, but there will be no harm to the environment. As the SNPRM states on page 44533 the Coast Guard is not requiring vessels to eliminate DCR discharges “because we continue to believe, as we did when we issued the interim rule, that a ‘zero discharge’ requirement would be more costly than necessary to protect the environment against adverse impacts, and because the adverse impacts that can be associated with DCR discharges are only minor and indirect.”

Great Lakes dry-bulk carriers are a distinct class of vessel and Lake Carriers’ Association can produce a Dry Cargo Residue Management Plan that covers its membership:

The SNPRM proposes to require each vessel to carry its own vessel-specific DCR management plan. Our members already have specific measures the crew employs, so the required plans already exist on a practical basis. We agree that there are instances when a vessel-specific plan is necessary, but we believe there is so much commonality in terms of general vessel lay-out, cargo hold figurations and unloading systems that a Management Plan that minimizes DCR can be applied to all. We note that the U.S. Coast Guard considers Great Lakes dry-bulk carriers a single class of vessel when it comes to meeting the requirements of The Maritime Security Act of 2002. All dry-bulk carriers enrolled in LCA are eligible to use our Alternative Security Program for Great Lakes Dry-Bulk Cargo Vessels©

("Lakers"). One member eventually elected to have its own plan, but that was matter of preference, not operational or structural differences.

The physical differences among LCA-registered vessels have little impact on how DCR is generated or minimized. In fact, a vessel that is 1,000 feet long and has 36 hatches and takes on 65,000 tons can have less DCR on deck than a ship 620 feet long that has 16 hatches and carries 17,000 tons per trip. The amount of DCR on deck is mostly the result of the dock's loading equipment and the type of cargo being loaded. Vessel characteristics don't play that great of a role in DCR generation, and how that DCR is minimized and discharged will not differ greatly from vessel to vessel, if at all. Most of the DCR will be shoveled back into the holds. The dusty residue that remains will be washed down at the appropriate time and location.

The unloading spaces are more similar than dissimilar. The conveyors will differ in length and width. Some vessels have one belt under the holds, others as many as three. Most vessels use a loop belt system to lift the cargo to the unloading boom belt. Two vessels employ bucket unloaders and one uses a HAC belt (it utilizes large cleats to carry the cargo up the incline). However, how DCR will be minimized will not vary greatly from vessel to vessel. DCR in the tunnels will either be shoveled or sumped back onto the belt and discharged along with the remaining cargo when feasible or sumped out in an appropriate location.

The Coast Guard should revisit its decision to not regulate shoreside facilities: On page 2-12 of the DEIS the Coast Guard declares that "The greatest opportunity for DCR generation during loading rests with the equipment and operations at the shoreside facility," but then continues "and it would be up to the vessel owner/operator to coordinate with the shoreside facility to take appropriate, economically practicable, and achievable steps to reduce DCR." The Coast Guard's rationale for essentially exempting docks is explained on pg. 44533 of the SNPRM:

Our regulatory focus has been, and will remain, the vessels that carry bulk dry cargo – even though the shoreside cargo loading and unloading facilities undoubtedly can play a role in creating, or limiting the creation of, the shipboard DCR that is eventually discharged into the Great Lakes. Focusing on vessels makes sense because the Coast Guard's inspection infrastructure is more geared toward vessels than to shoreside facilities. We would expect each vessel's DCR management plan to describe how the vessel works with shoreside facilities to facilitate the vessel's compliance with the requirements of 33 CFR 151.66

We must note that this "inspection infrastructure [that] is more geared toward vessels" did not stop Congress from charging the Coast Guard with regulating security at docks under the Maritime Transportation Security Act of 2002. The Facility Security Plans required by that law are approved and monitored by the Coast Guard. The Declaration of Security required by both the vessel and facility plans specifies what measures are the vessel's responsibility, what steps are the dock's duty, and what tasks are shared. We would further note our members' infrastructure is totally geared toward operating vessels. It should not be their responsibility to control DCR generation and reduction at facilities over which they have no authority. We have no doubt that the docks on the Great Lakes will endeavor to minimize DCR, but our members do not have the expertise, time, or authority to implement practices or install equipment on docks.

Last but far from least, there is little contractual or formal interface between carriers and docks. The customer decides where the cargo will be loaded and where it will be discharged. The shipper, not the carrier, pays the dock to load or accept cargo. Docks and vessels are distinct and separate links in the supply chain and minimizing DCR that results from loading or handling cargo should be the responsibility of the dock.

The discharge of large amounts of dry cargo residue is unique to the Great Lakes and the Coast Guard must take steps to ensure that inspectors transferred to the Lakes are familiarized with what is achievable and constitutes compliance with the Final Rule: We

recognize that the Coast Guard must rotate its personnel for training and advancement purposes. However, that means every few years industry must introduce itself to new personnel and explain the differences between Great Lakes shipping and shipping on our coasts and inland waterways. An inspector coming from the West Coast will have never seen a 69-year-old vessel with a riveted hull or a 1,000-foot-long vessel able to unload 65,000 tons of cargo in 12 hours or less without any assistance from shoreside personnel. Great Lakes shipping is operationally unique.

Dry cargo residue is a Great Lakes phenomenon and it will be important that inspectors transferred to the Lakes are familiarized with the practice and what constitutes compliance with the Final Rule before they begin their new duties. The DEIS includes some photos of shipboard conditions. It will be appropriate to develop a similarly illustrated NVIC or manual.

Lack of pre-emption of state laws and regulations could produce a patchwork of differing requirements: The SNPRM makes very clear that the Final Rule will not pre-empt state laws and regulations. We are concerned that this lack of Federal pre-emption will lead to a patchwork of differing requirements, a situation we already face with the states' Section 401 Certifications of the EPA's Vessel General Permit (VGP). For example, in both the current VGP and the draft for the next one, Ohio and Michigan focus on oceangoing vessels. Minnesota, on the other hand, requires existing lakers to meet the International Maritime Organization (IMO) standard by January 1, 2016 in the current VGP and a legal challenge may keep that requirement in the next. At one point, New York was requiring all vessels, even those that do not ballast in its waters, to treat their ballast to a level 1,000 times higher than the current IMO standard.

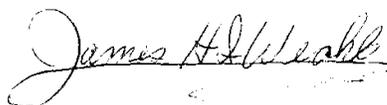
Without going into all kinds of legal analysis, we have always understood that waterborne commerce is Federally regulated, and that states may intervene only when there is a lack of effective Federal regulation or oversight. The SNPRM and the DEIS make clear that the DCR our members discharge is non-hazardous and non-toxic. The amount is minute. Discharge is not permitted in sensitive areas. In short, the Final Rule will fully protect the environment and so should be the sole standard applied to the Great Lakes.

Without going into all kinds of legal analysis, we have always understood that waterborne commerce is Federally regulated, and that states may intervene only when there is a lack of effective Federal regulation or oversight. The SNPRM and the DEIS make clear that the DCR our members discharge is non-hazardous and non-toxic. The amount is minute. Discharge is not permitted in sensitive areas. In short, the Final Rule will fully protect the environment and so should be the sole standard applied to the Great Lakes.

Conclusion

Lake Carriers' Association and its members are committed to the Great Lakes environment and have often taken the lead in addressing issues. We were the first maritime organization in North America, way back in 1993, to develop a ballast water management plan. We developed Best Management Practices that became the basis for Coast Guard and EPA regulations. Our members have taken steps to reduce DCR and will continue to do. We support the intent of Final Rule and believe that incorporation of our comments will make it even more effective in maintaining safe and efficient shipping on the Great Lakes and protecting the Great Lakes environment.

Very Respectfully,



James H. I. Weakley
President