

Court Upholds Coast Guard's Segregated Ballast Ruling



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On March 17, 2011, Judge Brinkema, of the U.S. District Court for the Eastern District of Virginia, upheld the Coast Guard's segregated ballast ruling regarding the *Seabulk Trader*. That vessel, required to retire as an oil tanker in 2011 by the Oil Pollution Act of 1990, was "double-hulled" in China in 2007. Competitors challenged whether the vessel had been "rebuilt" abroad, which would have disqualified it from the U.S. coastwise or Jones Act trade, and whether segregated ballast tanks had been added outside the U.S., which also would have been a Jones Act disqualifier. With the rebuild decision having been decided in favor of the vessel in 2009, only the ballast tank issue remained. Judge Brinkema determined that the Coast Guard is entitled to deference on its conclusions that the ballast tank work done in China was not proscribed by the statute in part because the vessel already had segregate ballast tanks prior to the China work. This is the latest chapter in related law suits which commenced in 2006 with a case involving the Matson Navigation Company vessel *Mokihana*."

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Author

[Charlie Papavizas](#)

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