



FORWARD MOVEMENT

Newly-released studies support industry standards for ballast water standard

Over the past few months, there have been several significant scientific, economic and political developments that are furthering the on-going public policy debate on the proposed New York State ballast water regulations. The Great Lakes/Seaway system maritime industry strongly believes the proposed regulations, scheduled to go into effect in August 2013, to be unachievable, unverifiable and unnecessary. If left unchanged, these regulations will result in significant economic harm—ending in the termination of maritime commerce in New York waters, including the St. Lawrence Seaway. These recent developments clearly illustrate the ill effects of the proposed regulations promulgated by the New York State Department of Environmental Conservation (NYDEC) on vessel transiting New York waters.

Scientific developments. The National Research Council (NRC) of the National Academies released a study in June that provides substantive answers to several key questions regarding ballast water discharge standards and the current state of science in assessing the risk from ballast water discharges. This report was followed in July with the release of the U.S. Environmental Protection Agency's Science Advisory Board (EPA SAB) report that assessed the availability of ballast water treatment systems and the current state of science in verifying the performance of these systems. EPA tasked the SAB to address whether ballast water treatment technology exists now, or in the foreseeable future, to meet a standard greater than the criterion established by the International Maritime Organization (IMO). In the final report, the SAB emphatically stated that no such technology exists currently, or is expected to be available any time soon, to meet a 100 times IMO standard.

The findings of the NRC study and SAB report challenges the NYDEC's position calling for the implementation of a significantly higher discharge standard. The notion that ballast water treatment technologies will be

available to ship owners and builders to meet this standard and that the State of New York can adequately verify compliance with this higher standard have been substantially weakened as a result.

Economic developments. The recently released U.S.-Canadian Great Lakes/Seaway system economic impact study measured the system-wide economic benefits of maritime commerce on the binational system, but also included a separate chapter detailing the impacts of maritime commerce that traverses New York waters. The Saint Lawrence Seaway Development Corporation is proud to be one of the study's sponsors. The report's chapter on New York traffic clearly details the likely losses to the U.S. and Canadian economies should the NYDEC regulations take effect and put an end to Seaway commerce.

For example, more than 72,000 jobs in Canada and the United States are in some way dependent upon the movement of more than 47 million metric tons of cargo handled by ports annually on the Great Lakes/Seaway system that moves through New York waters. The implementation of the NYDEC rules will have an immediate and irreversible effect on those jobs, including associated annual wages totaling \$3.8 billion. In addition, \$10.5 billion in business revenues and \$1.4 billion in federal, state, provincial and local taxes are generated each year from this cargo movement. In today's tough economic conditions, these significant impacts cannot be ignored and should be strongly considered when determining a viable policy solution.

It is important to emphasize that the majority recipient of these economic benefits is Canada. If implemented, New York's current regulations would arguably result in a direct violation of long-standing international agreements between the United States and Canada allowing for free and open commerce through the binational St. Lawrence Seaway.

Political developments. Three Great Lakes governors—Governors Walker (WI),

Kasich (OH) and Daniels (IN)—penned a joint letter to New York Governor Cuomo in early September seeking a change to New York's current set of proposed ballast water regulations. The letter noted, "NYDEC regulations are already having an effect on maritime commerce in the Great Lakes as shippers, ports, industry and labor unions looking to establish long-term business agreements and plan future investments. Preventing the spread of invasive species continues to be a top priority for all of us, but waterborne shipping is critical to our economies, and we must work together toward controlling invasive species while also protecting the commerce of our nation's waterways."

The governors' letter attracted broad media attention through the Great Lakes region. For example, an editorial in the *Milwaukee Journal Sentinel* concluded that, "New York should relax its regulations on ballast discharge, as Wisconsin and other Great Lakes states, and Canada, are asking. No one wants more invasive species coming into the Lakes, but it doesn't make much sense to enforce standards that are impossible to meet. What's needed is a more practical standard that is uniform across the Lakes."

In addition, Ohio's U.S. Representative Steven LaTourette successfully offered a bill amendment in July 2011 that would deny EPA funding to any Great Lakes state that adopts ballast water requirements more stringent than federal standards. Finally, the governments of Denmark, the Netherlands and Norway have now joined Canada to complain to the U.S. Government regarding New York's proposed ballast water requirements.

These recent developments, along with the proven success of Seaway-regulated ballast tank exams and mandatory saltwater flushing as well as the pending EPA and U.S. Coast Guard rules related to federal ballast water standards, should convince New York officials that an alternative solution must be considered and developed. With an implementation date quickly approaching, it is vital that New York take immediate steps to propose an alternative set of regulations that strikes a proper balance between protecting the environment and supporting economic growth. ■

COLLISTER ("TERRY") JOHNSON, JR.
Administrator
Saint Lawrence Seaway Development Corporation