

Protecting Trade on the Great Lakes and St. Lawrence Seaway

The State of New York has unilaterally imposed ballast water regulations for ships transiting New York waters that require technology that does not currently exist. Adopted under the Vessel General Permit with individual State additions, these standards would require all ships discharging ballast water in New York State and ships transiting New York State waters to have the ability to clean their ballast water to a standard that is 100 times greater than International Maritime Organization (IMO) standards. Furthermore, all new ships will be required to adhere to a standard that is 1000 times greater than current IMO standards.

When not fully loaded, cargo ships must take on water (ballast) to maintain their stability. Ballast water pumped onboard in one port may inadvertently contain aquatic organisms that are then released when the ballast is discharged in another port. In most cases, these organisms die; however, in some cases they thrive in their new environment. As global trade expands, concern over the movement of aquatic organisms is also growing.

Today, vessels entering the Great Lakes region undergo the most stringent ballast management and inspection regulations in the world. To ensure compliance with regulations, the US and Canadian governments stop, inspect and test every foreign ship entering the Great Lakes in Montreal – the gateway to the St. Lawrence Seaway. Since these protections were put in place in 2006, there have been no new discoveries of aquatic nuisance species in the Great Lakes. In fact, a June 2010 Department of Fisheries and Oceans study determined that Canada's ballast water policies for the Great Lakes are among the best in the world. The study concludes that not only has the 2006 Great Lakes Ballast Water Program proven to be highly effective in preventing the spread of aquatic invasive species but could form the framework for similar programs across the world.

As all vessels entering the Great Lakes / St. Lawrence Seaway must pass through New York waters, the new regulations would effectively shut down all vessel transits into and out of the Seaway. This would dramatically affect many large ports situated on the Great Lakes and St. Lawrence Seaway.

Furthermore, once these regulations go into effect, many of the industrial and manufacturing companies with operations on the Great Lakes will be unable to ship goods and materials to and from Canadian, North American and international markets. This will cause massive disruptions in markets that depend on these goods and could have serious economic impacts not to mention infringe of Canadian sovereignty over its waterways.

While New York State has extended the original deadline for the installation of this technology from January 1, 2012 to August 1, 2013, the requirements continue to pose a serious risk to shipping and cargo transportation on the Great Lakes and St. Lawrence Seaway. Over the past several years there have been advancements with innovative ballast water treatment technology. Unfortunately the technological standard set by New York State requires technology that has not been developed to meet their proposed standards, that will work in fresh water and Great Lakes environmental conditions, and that will meet operational parameters of Great Lakes ships operations. Furthermore this technology is likely to remain unavailable by August 2013.

The results of the imposition of these unrealistic and technologically impossible standards will be severe.

Recommendations

To prevent widespread economic harm while still supporting ongoing environmental improvements, the Canadian Chamber of Commerce recommends that the Canadian government:

1. Continue to work with the United States federal and state governments to reach a solution that protects Canadian interests and sovereignty.

2. Adopt the position that the State of New York's regulations are beyond the powers of the state (ultra vires) because they impede international trade with Canada.
3. Pressure the government of New York State to work in tandem with other jurisdictions and relevant stakeholders to adopt achievable and harmonized regulatory requirements that are based on science and are technologically and economically feasible.
4. Pressure the government of New York State to eliminate their State specific and non achievable ballast water treatment standards.
5. Work with U.S. and Canadian federal, state, provincial and territorial governments to develop bi-national solutions and to ensure that similar regulations are not unilaterally adopted.

Submitted by the Windsor-Essex Regional Chamber of Commerce and the Canadian Chamber of Commerce Transportation Committee