CHAMBER OF MARINE COMMERCE

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December 4, 2009

United States Coast Guard
Department of Homeland Security
Docket Management Facility (M-30)
U.S. Department of Transportation
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington DC
20590-0001

Docket ID USCG-2001-10486
United States Coast Guard proposed rulemaking entitled "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters"

Dear Sir or Madam:

The purpose of this submission is to formally provide comments on the U.S. Coast Guard's ("USCG") proposed rule to establish a standard for the concentration of living organisms in ballast water discharged from ships in U.S. waters.

About the Chamber of Marine Commerce (CMC)

The CMC is a bi-national (Canada-U.S.) association of marine industry stakeholders consisting of more than 150 companies and organizations that include Canadian and international ship owners and ship operators, major Canadian and American shippers, ports, terminals, marine industry service providers and related industry associations. CMC's overriding mandate is to advance the development of government policy, legislation and regulations that enhance the competitiveness, safety and environmental sustainability of the marine transportation industry.

Industry initiatives to address ballast water

With respect to environmental sustainability, the marine transportation remains one of the world's most environmentally friendly means of shipping goods, and is deeply committed to a voluntary initiative to strengthen and improve the industry's environmental performance. This program, recently co-founded by CMC with other leading industry stakeholders around the Canadian and U.S. Great Lakes and St. Lawrence waterway, is called Green Marine.

The Green Marine program is designed to reduce the environmental impact of the maritime sector and to implement a process of continuously improving the industry's environmental performance. This initiative currently includes 45 participants and an equal number of partners and supporters representing a significant portion of shipping activity on the Great Lakes-St. Lawrence Waterway.

350 Sparks Street, Suite 700, Ottawa, Ontario, K1R 7S8
T: 613-233-8779 W: www.cmc-ccm.com

The risk of introducing and propagating aquatic invasive species by means of ships' ballast water has been identified as the maritime industry's top priority issue, which is why the Green Marine Program establishes a number of stringent measures to address this matter. The performance indicators for this issue encourages all shipowners, whether domestic or international, to implement safer practices and introduce new technologies that will ultimately enable them to comply with (or even exceed) future requirements under the *International Convention for the Control and Management of Ships' Ballast Water and Sediments*.

Green Marine represents an important step forward in demonstrating to all stakeholders the maritime industry's commitment to improving its practices and operations in order to better protect the environment. More information on Green Marine is available at www.green-marine.org.

Governments must strive for regulatory harmonization

An increasingly difficult challenge facing the North American marine industry today is trying to understand and ultimately comply with the many laws and regulations that federal, state/provincial governments and their agencies often unilaterally seek to impose seemingly without regard to regulations in other jurisdictions. Particularly for the shipping industry and the thousands of businesses and tens of millions of people surrounding the Great Lakes – St. Lawrence region that rely on the industry to transport goods and material to and from the rest of the world, such a patchwork of regulatory regimes poses potentially crippling obstacles.

By its very nature, shipping is most efficient and effective when vessels travel long distances, necessarily transiting across more jurisdictional boundaries the longer the distance traveled. Therefore, as individual jurisdictions unilaterally regulate with different standards than neighboring jurisdictions, the result is a complex, occasionally undecipherable and often unpredictable regulatory horizon that directly penalizes the shipping industry for essentially doing what it does best – moving vast quantities of goods and material long distances at relatively low cost and with relatively small environmental footprint.

Further, as investments in new ships (typically $40-60-million each) are weighed against a return on investment over periods of twenty-five to forty years, frequently changing and unpredictable regulatory standards popping up from various jurisdictions that may impose significantly greater costs or even threaten the viability of the business also imposes difficult challenges on the ability of businesses to invest and thereby prepare for the future.

With such challenges in mind, the CMC believes the USCG proposed rule offers a glimmer of hope in an otherwise growing patchwork of non-harmonized regulations. Indeed, to the extent that the proposed rule seeks to – and is ultimately successful in – harmonizing ballast water regulations across the United States, the USCG should be lauded.

One regulatory standard: IMO

In February 2004, the International Maritime Organization (IMO) adopted the Ballast Water Management Convention, which establishes ballast procedures for ships and includes an international standard for ship ballast water discharge. Since then, the world shipping community has gravitated towards these standards. For up bound incoming ocean-going vessels, the U.S. and Canadian Seaway Corporations now inspect 100% of the ships for compliance with ballast water exchange and discharge. Non-compliant vessels must either return to salt water and complete system flushing or maintain ballast tanks sealed. Since the implementation of these IMO standards by regulators and the Seaway Corporations, there has been no published scientific evidence of any new introduction of a non-native aquatic invasive species (NAIS) to the Great Lakes – St. Lawrence.

In keeping with the principle of regulatory harmonization, the most ideal form of regulatory harmonization would occur not only across all U.S. States, but also across national borders with Canada as well as other countries of the world. The CMC recommends that the USCG continue to cooperate with the IMO in establishing a standard for ballast water discharges.

Great Lakes should not be subject to more stringent standards

Within the proposed rule, the specific question was raised concerning more stringent standards and/or earlier compliance dates for the Great Lakes. In keeping with the principle of harmonized regulatory standards across jurisdictions, the CMC would strongly oppose different, more stringent standards for the Great Lakes region.

Additionally, the imposition of a unique and more stringent standard for the Great Lakes would only serve to place the Seaway, ports and cargo interests at a competitive disadvantage versus coastal trade routes and likely result in diverting water-borne traffic to alternate modes of transport thereby leading to a greater negative consequence to the environment.

Extend grandfathering period

The CMC contends that the proposed grandfathering period of five-years of Phase I ballast water treatment equipment systems, if and when Phase II is implemented, is unreasonable and that such systems be grandfathered for the life of the system installed on those particular vessels.

The proposed 5-year grandfathering period would place a significant financial burden on shipping companies by requiring the expenditure of hundreds of millions of dollars in systems and technology that may not even be necessary to prevent the introduction of new NAIS.

Impracticality of Phase II

As for the identification and introduction of Phase II standards which are themselves contingent on what is outlined in the proposed rule as a 'practicability review' to occur in three years time, CMC suggests that it is highly impractical and moreover contravenes legal principles of certainty to bring into force regulatory standards today that will ostensibly

come into effect at some date in the future yet which will be contingent upon a review process which is not currently well defined nor completely quantified.

Leading U.S. and Canadian scientists have recently noted that there may be relatively little environmental benefit to be gained from the increased standard proposed, while it could require a quantum leap in technology with commensurate financial penalties that the domestic Great Lakes shipping industry can ill afford. The USCG has acknowledged that more scientific study would be needed before moving to this Phase. This being the case, it is difficult to understand the justification used by USCG in formulating this part of the proposed rule at this particular time.

Exemption for U.S. and Canadian vessels (Lakers) operating exclusively in Great Lakes – St. Lawrence

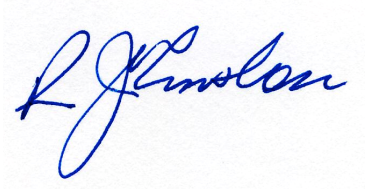
There are many U.S. and Canadian–flagged vessels that never leave North America and consequently never introduce foreign species into the region. Besides being the workhorses that move so much grain, iron ore, coal, salt, aggregate, cement and other vital materials that North America relies upon to be economically strong – these Lakers by their very design are physically unable to leave inland waters.

We respectfully submit that the proposal to require the installation of ballast water treatment systems (BWTS) on existing Lakers has not been adequately considered. There are a number of issues that must be fully evaluated to determine the feasibility of implementing such a requirement, including the availability and effectiveness of BWTS in fresh water, the capability of BWTS to achieve flow rates commensurate with the requirements of Laker-trades, engine room space limitations, additional power requirements and the financial implications of retrofitting existing Lakers.

Therefore, CMC suggests that the USCG rulemaking, as it applies to domestic vessels, be reviewed and the timeline extended until a proper analysis and assessment of the costs and benefits of applying these standards to the Laker fleet is completed.

We thank the USCG for providing this opportunity to comment and trust that our views will be considered and reflected in the final standard for ballast water discharges.

Sincerely,



Raymond Johnston
President