



September 27, 2009

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mailcode 6102T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Docket ID: EPA-HQ-OAR-2007-0121
Re: Notice of Proposed Rulemaking, Federal Register, August 28, 2009, 40 CFR
Parts 80, 85, 86, et al; Control of emissions from new marine compression-
ignition engines at or above 30 liters per cylinder

Dear Sir/Madam:

The Chamber of Marine Commerce (CMC) hereby provides the following intervention regarding the U.S. Environmental Protection Agency's Notice of Proposed Rulemaking (NPRM) under Docket ID: EPA-HQ-OAR-2007-0121.

The CMC represents over 160 Canadian and U.S. companies that rely on efficient, safe and environmentally smart marine transportation to transport products and material that serve people all over the world. CMC's membership includes large industrial shippers, shipowners and shipoperators, ports, Seaway corporations, terminals, elevators and marine industry-related companies.

While all forms of freight transportation provide unique and valuable benefits to individuals, organizations and our nations, enhancing competitiveness and furthering the goals of socio-economic prosperity, the marine mode of transportation stands alone as the safest and most efficient way to move vast quantities of goods and material at relatively low cost. While water and coastal regions are certainly attractive locations for their aesthetic characteristics, the magnitude of economic activity derived from the regions of our countries located on major waterways (ie. New York/New Jersey, Los Angeles/Long Beach, Houston, Seattle/Tacoma, Duluth, Baltimore, Vancouver, Toronto, Montreal, ...) speaks volumes to the many benefits our countries and our people derive from marine trade and commerce. Almost everywhere we look we can see those benefits in so many of the products and materials we depend upon everyday for our survival and growth, prosperity, and enjoyment of life.

It is certainly unfortunate that such benefits are not entirely without some cost. Although today's ships are the biggest, most efficient, most technologically sophisticated and environmentally sound engineering feats they have ever been, they still lamentably have an environmental footprint.

But that footprint is getting smaller. And while everyone would like to see the environmental footprint of shipping, trucking, rail, air transportation, and so many other beneficial human

activities entirely eliminated tomorrow, that cannot be achieved in practice without seriously wounding industry and the socio-economic health of the people and regions that depend so much on them.

The solution is to strike an appropriate balance. We must continue working towards reducing shipping's environmental footprint while not significantly compromising – nor jeopardizing – the tremendous benefits derived from it. The shipping industry is committed to continuing to increase its environmental friendliness, ... especially to reduce air emissions, but it must continue to do so strategically and incrementally through a phased-in approach.

Unfortunately, the EPA's NPRM does not appear to have taken a balanced approach nor does it appear to have adequately considered the unique situation of the Canadian and U.S. Great Lakes – St. Lawrence region. Certainly, insofar as this region is concerned, the CMC fears the NPRM, if implemented as proposed, could seriously wound not only the Canadian and U.S. Great Lakes shipping industries, it may correspondingly result in further serious economic dislocation and hardship for these fragile regions.

EPA did not address Great Lakes – St. Lawrence shipping

For large quantities of goods and material to make transoceanic transit, there really is no other practical alternative for shippers than to move freight by ships. As such, the market for ocean shipping has an elasticity of demand that is extremely low. Without any real competition for transporting shipper product, in relative terms (*ceteris paribus*) freight rates can increase a significant degree before the shipper customer finds some other alternative or is simply unable to maintain logistics or a sustainable business.

Conversely, in the inland waters of North America, especially the Great Lakes – St. Lawrence River where shipping caters to the heartland of the continent, there continues to be significant competition with marine shipping, especially from land-based modes of transportation. Given such pressure on marine shipping rates, it can safely be assumed that any variable that causes marine shipping rates to increase may correspondingly result in a loss of business by marine shippers to other forms of transportation. In fact, based on a recent study for the Canadian Shipowners Association (CSA)¹, it was forecasted that the requisite increase in marine shipping freight rates associated with shifting to distillate fuels to comply with EPA's NPRM could induce a shift of 10-20% of existing market share to other modes of transportation. Given this market reality, shipping in the Great Lakes – St. Lawrence region is very demand elastic, directly contrary to the market for transoceanic shipping.

However, it appears that EPA based the NPRM exclusively on the model of what it considered to be a typical ocean-going vessel (OGV), therefore assuming market dynamics that are very different from domestic fleets that spend almost 100% of their entire serviceable lives within the Great Lakes – St. Lawrence region. Even within the OGV segment, CMC has corporate members exclusively operating OGVs that spend on average up to 33% of each transit in the Great Lakes – St. Lawrence region. Unfortunately, the apparent false assumptions inherent in this aspect of the NPRM pervade much of the EPA's proposed

¹ *Study of Potential Mode Shift Associated with ECA Regulations In the Great Lakes*, Research and Traffic Group, Ottawa, August, 2009.

rulemaking in that there appears to be little – if any – consideration of how the ECA could affect the dynamics of Great Lakes – St. Lawrence shipping.

EPA must account for potential mode shift in GLSL region and resulting increase in air pollutants

If it is reasonable to assume that the increase in ship freight rates brought on by increases in distillate fuel costs may cause shippers to shift transportation mode from ship to truck (as predicted in the report referenced above), we suggest it is correspondingly incumbent on the EPA to account for this potential and to analyze and model it and to quantify projected outcomes. We would further suggest that the adverse environmental – as well as socio-economic – outcomes associated with an increase of potentially hundreds of thousands of new heavy truck transits on already congested and over-burdened highway infrastructure in the heart of North America should have been seriously considered and studied by EPA before including this region in its rulemaking.

The EPA wisely excluded the U.S. territories of Puerto Rico and the U.S. Virgin Islands, Western Alaska including the Aleutian Islands and the Arctic as well as the Pacific U.S. Territories from application in this NRPM because there was insufficient data from which to draw predictable outcomes. This same rationale should be applied to the Great Lakes – St. Lawrence region: The paucity of information for this critical region necessitates regulatory exclusion until rigorous analysis and rationalized outcomes can be achieved.

Emissions reductions are needed, but must be phased in over reasonable timeframes

The Canadian and U.S. shipping industry operating in the Great Lakes – St. Lawrence region is acutely aware of its environmental footprint which is why the industry has continued to minimize that footprint while continuing to deliver the tremendous advantages that shipping has to offer. The industry has voluntarily enrolled in the Green Marine² program, submitting itself to an ongoing program of continuous improvement on a comprehensive spectrum of environmental standards and inspection regimes. And on a daily basis, the industry strives to achieve a reasonable balance between being the safest and most efficient mode of transporting valuable goods and material that benefit people worldwide and working towards virtually eliminating its environmental footprint.

The Great Lakes – St. Lawrence shipping industry is also greening its fleet in line with the realities of fleet renewal. But for \$50 million assets with decades-long lifespans, it is unrealistic to regulate wholesale changes over only a two to five -year period as the EPA is attempting in this NPRM.

Performance, not prescription: Technology can meet emissions reduction goals, but reasonable timeframes are needed

One of the many ubiquitous wonders of our economy is the breadth and magnitude of the innovation it produces. Which is why it is unfortunate that in this NPRM, EPA appears to be

² <http://www.green-marine.org>

attempting to limit innovation in favour of prescribing defined standards by way of quantitative fuel ratios.

Alternatively, we suggest a much better approach to regulating air emissions is to focus on the identification of desired outcomes, allowing the power of innovation inherent in the free market to produce the requisite technology that will achieve performance commensurate with such outcomes. And while there is already much existing technology and technology currently in development that may allow industry to meet such performance targets, again, it will very likely take more time than the short window provided for in EPA's NPRM in order to realize the benefits of such innovation. We would submit, however, that such an extension on timing is little compromise when compared to the technological bounty inevitably produced through the process of innovation.

Conclusion

Over the past couple of years, the Great Lakes – St. Lawrence region has been hit hard by economic circumstances largely out of the region's control. The recent recession has struck a serious blow to industries and people in the region. While there are hopeful signs the region may be starting to recover, the evidence is not conclusive.

What is clear, however, is that a recurring onslaught of unplanned and badly considered regulatory burden – marine service fees, harbour maintenance taxes, exorbitant pilotage tariffs, tolls, a patchwork plethora of new ballast water certification regimes, and now proposed new rules which could double fuel costs – makes it very challenging for this region to survive and prosper.

Industry needs the empathy, cooperation and full partnership of government and regulatory agencies in order to successfully deliver a sustainable balance between economic prosperity and minimization of the environmental footprint.

In this vein, we believe that a proposed rulemaking that has not consulted nor adequately studied the complex and potentially dramatic impact on a region as unique and valuable to North America as the Great Lakes – St. Lawrence, should be ample reason to exclude this region until a more rigorous consultation and study have been undertaken.

Sincerely,



Raymond W. Johnston
President