

September 7, 2011

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

We are writing to share our concerns regarding regulations adopted by the New York Department of Environmental Conservation (NYDEC) that could seriously impede maritime commerce in the Great Lakes States to the west of New York.

In late 2008, NYDEC issued rules intended to prevent the introduction of aquatic nuisance species into New York waters via the ballast water of commercial vessels. While we share NYDEC's concern regarding the impact of invasive species on the ecology of the Great Lakes, we note that the International Maritime Organization (IMO) has coordinated a global treaty to require all ships to install environmental technology by 2016 to clean ballast water to a specific water quality standard. The IMO is the maritime arm of the United Nations and it coordinates international shipping policy. Many Great Lakes states have incorporated the IMO ballast water treatment standard into their own rules. Likewise, the U.S. Coast Guard (USCG) has embraced these same requirements for new federal regulations to be issued later this year.

Under New York's regulations, shipowners must install technology on existing vessels by August 1, 2013, to treat ballast water to a level 100 times more stringent than the IMO standard. Any vessels built after January 1, 2013, must include technology to treat ballast water to a level 1,000 times more stringent than the IMO standard. These rules not only apply to ships visiting New York ports, but also extend to ships in passage through New York waters destined for the ports of neighboring states and provinces. The rules apply to ships whether or not they discharge ballast water.

Today, there is no technology approved by the USCG to meet New York's regulatory requirements. In fact, the USCG has yet to establish a ballast water treatment technology approval process. Shipowners will not install ballast water treatment systems unless USCG approved, because they are unable to obtain insurance otherwise.

We also note that in February 2010, the Wisconsin Department of Natural Resources (WDNR) established ballast water treatment regulations similar to the NYDEC; i.e., 100 times the IMO standard. Wisconsin's ballast water discharge general permit required the WDNR to conduct a feasibility determination of this standard, which it completed in December 2010. After considerable analysis, and in consultation with the Ballast Water Collaborative, a group of leading environmental scientists, vendors, naval architects and other experts in the U.S. and Canada, including New York DEC staff, the WDNR concluded that treatment technologies do not exist today to meet the 100 times IMO standard. The WDNR ballast water general permit was subsequently modified to require the IMO standards.

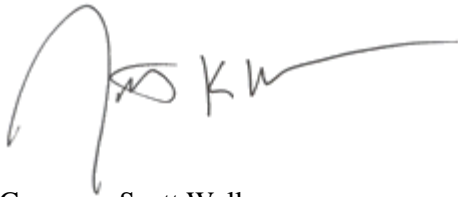
Ohio and Indiana employ the Vessel General Permit (VGP) under the National Pollutant Discharge Elimination System (NPDES) – which has gone through each state’s 401 review process and includes conditions that do not exceed IMO standards to regulate ballast waters. Further, USEPA has a Memorandum of Understanding with the US Coast Guard to, when inspecting vessels, ensure they are complying with the VGP.

We know the U.S. Environmental Protection Agency tasked its Science Advisory Board (SAB) to address the question of whether ballast water treatment technology exists now, or in the foreseeable future, to meet a standard greater than IMO. In the SAB’s recently issued final report, it emphatically stated that no such technology exists.

The State of New York is now the only jurisdiction in the Great Lakes that still regulates ballast water treatment technology more stringently than the IMO standard, and New York’s standards are technologically impossible to meet. Unless the NYDEC regulations are amended, they will possibly force the closure of the St. Lawrence Seaway, and imperil thousands of maritime-related jobs in the Great Lakes States and Canada. Fortunately, the final USCG ballast water regulations will be published in the next few months. We have always supported a strong, consistent standard that covers all U.S. waters.

NYDEC regulations are already having an effect on maritime commerce in the Great Lakes as shippers, ports, industry and labor unions look 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. We urge New York to take prompt action and amend its ballast water regulations to align with the IMO and USCG standards.

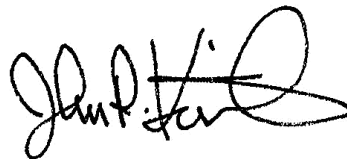
Sincerely,



Governor Scott Walker
Wisconsin



Governor Mitch Daniels
Indiana



Governor John Kasich
Ohio