



June 6, 2012

Joseph Martens  
Commissioner  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-1010

**RE: NYDEC Section 401 Certification for  
the Environmental Protection Agency's  
Vessel General Permit**

Dear Commissioner Martens:

The American Great Lakes Ports Association represents the public port authorities on the U.S. side of the Great Lakes. Each of our member port agencies is a division of state or local government, or an independent agency created by state statute. As a group, and individually, Great Lakes ports work to foster maritime commerce in our region and economic development in their communities. We appreciate this opportunity to comment on the New York Department of Environmental Conservation's (NYDEC) Draft Section 401 Certification for the U.S. Environmental Protection Agency's Vessel General Permit (VGP). Once finalized, this permit will replace the current VGP, which expires on December 19, 2013.

While neither the EPA nor the NYDEC seek to regulate ports and marine terminals, the VGP and NYDEC's Section 401 Certification do impact the vessel operators who serve our communities. These transportation companies engage in the movement of freight and play a critical role in the economies of Great Lakes cities, states, and the region as a whole. In 2010, our organization partnered with a number of other stakeholders to produce the first comprehensive economic impact analysis of the entire bi-national Great Lakes - Seaway navigation system. The study concluded that Great Lakes navigation supports more than 227,000 jobs in the United States and Canada, generating \$33.5 billion in business revenue, and contributing \$4.5 billion in federal, state/provincial and local taxes. The report further demonstrated that Great Lakes maritime commerce specifically supports more than 1900 jobs in New York. We have attached a copy of the study and ask that it be included in the file as supporting material establishing a record of the economic contribution of the Great Lakes maritime industry to New York.

## **Ballast Water**

While the VGP covers more than two-dozen different vessel discharges, NYDEC's Draft Section 401 Certification generally focuses on ballast water management. Ballast water discharges have been identified as one of the primary vectors by which non-native species have been introduced into the Great Lakes. Absent natural predators, these organisms can reproduce quickly, displacing native fish and plant life. The shipping industry acknowledges the role it plays in moving organisms around the globe and is committed to taking steps to minimize and eventually eliminate the problem.

Our organization supported enactment of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, and the National Invasive Species Act of 1996. Together these laws require ocean-going vessel operators to exchange their ballast water at sea prior to entering U.S. ports. We also supported efforts by the St. Lawrence Seaway Development Corporation, the St. Lawrence Seaway Management Corporation, the U.S. Coast Guard and Transport Canada to require all ocean-going vessels entering the St. Lawrence Seaway to conduct saltwater flushing of ballast tanks regardless of whether they contain ballast water. Ballast exchange and saltwater flushing are management practices that have been shown to reduce the number of viable organisms in ships' ballast tanks. Implemented in 2006, these requirements represent the most stringent ballast water management regime in the world. Today, every ship entering the Seaway from overseas is stopped, boarded and inspected to ensure compliance.

While these management practices are important interim measures for the Great Lakes-Seaway system, we believe the best long-term solution is installation of ballast water treatment systems onboard ocean-going ships. In 2004, the International Maritime Organization (IMO), developed a global agreement requiring all ship owners to install environmental technology to clean or treat ballast water to a specific water quality standard to prevent the movement of species. The IMO is the maritime arm of the United Nations and coordinates international shipping policy. Our organization supports these international requirements.

## **State Regulation of Ballast Water**

For more than 20 years, stakeholders have pleaded for strong federal leadership on the ballast water problem. Such leadership has been elusive. In its absence, state governments have stepped into the vacuum. The resulting patchwork of state rules has further confused the regulatory landscape. We believe this confusion has delayed deployment of ballast water treatment systems, delayed environmental protection and created an uncertain business climate in the maritime sector.

For this reason, we were pleased when the U.S. Coast Guard issued the first national ballast water treatment regulations last March. These rules will require vessel owners to install equipment on ships to clean and treat ballast water prior to discharge. The EPA has proposed similar rules to take effect in 2013. While federal leadership had been missing, that is no longer the case. Two federal agencies have now put forth robust regulatory programs and have the infrastructure to support and enforce those programs.

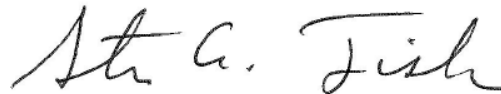
## Specific Comments

We support NYDEC's measured approach to ballast water regulation as detailed in the draft certification. For the time being, the State of New York is effectively embracing the the proposed regulatory program put forward by the EPA. Further, New York will also require ballast water exchange / salt water flushing as a management practice in conjunction with the installation of ballast water management systems. While there is no current research quantifying the benefits of ballast exchange/salt water flushing + treatment, the two approaches combined may lead to a discharge water quality that exceeds the IMO standard. A number of Great Lakes states are understandably pushing for the most protective standard possible. Ballast water exchange plus treatment may offer an approach that moves another step toward that goal.

We appreciate NYDEC's willingness to work with stakeholders to address regulatory and operational challenges related to ballast water management. Each state's approach to ballast water regulation will impact the viability of its maritime industry. We believe New York has balanced economic and environmental concerns in a reasonable manner.

Thank you for considering our views. We hope to continue dialogue on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Steven A. Fisher". The signature is written in a cursive, flowing style.

Steven A. Fisher  
Executive Director