

**TESTIMONY OF MIKE JEWELL  
PRESIDENT  
MARINE ENGINEERS' BENEFICIAL ASSOCIATION**

HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE  
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION  
AND THE  
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

HEARING ON  
"REDUCING REGULATORY BURDENS, ENSURING THE FLOW OF COMMERCE, AND  
PROTECTING JOBS: A COMMON SENSE APPROACH TO BALLAST WATER  
REGULATION"

July 13, 2011

Good morning Chairmen LoBiondo and Gibbs and Ranking Members Larsen and Bishop. I am Mike Jewell, President of MEBA, and a U.S. Coast Licensed Chief Engineer and a Captain in the U.S. Navy Reserve.

On behalf of the Marine Engineers' Beneficial Association (MEBA), the American Maritime Officers (AMO), the International Organization of Masters, Mates & Pilots (MM&P) and the Seafarers International Union (SIU), I thank you for the opportunity to testify; and I thank you for your continued support of the U.S. Merchant Marine. We appreciate the opportunity to present our views on "Reducing Regulatory Burdens, Ensuring the Flow of Commerce, and Protecting Jobs: A Common Sense Approach to Ballast Water Regulation."

Collectively, our maritime labor organizations represent ships' Masters, Deck and Engineering Officers, and unlicensed merchant mariners working aboard U.S.-flag commercial vessels operating in our nation's foreign commerce and domestic trades. The development and implementation of policies and regulations that govern this fleet are very important. They have a

large impact on its economic viability and its ability to compete for a larger share of America's foreign trade as well as the creation of a vibrant coastwise shipping industry. The policies and regulations are therefore extremely important to the jobs of the men and women our labor organizations represent. Consequently, we are pleased that this hearing is being held and that we have been given the opportunity to present our views.

Today, more than ever, it is clear that there is a need for clear and consistent measures to address ballast water. These ballast discharges have the potential to carry invasive species into U.S. bodies of water causing environmental damage. The U.S.-flag maritime community has and continues to work diligently to address the issue. Prior to the enactment of state and federal regulatory proposals, the maritime industry began developing ballast water management plans as early as 1993.

On February 6, 2011, the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) came into action. The NPDES is a permit system that was originally intended to apply only to landside establishments concerning discharges into surrounding waters. In 2005, a federal judge overturned the part of the regulation that exempted vessel discharges (which had been in place since 1973) thus subjecting vessels to a set of standards that had been tailored to address a much different industry. Following this court decision, on December 18, 2008, the Environmental Protection Agency (EPA) issued regulations governing 26 vessel discharges. Since these standards have come into effect, in February of 2009, vessel operators have worked with the Coast Guard and the EPA to ensure that they are reaching compliance in a timely fashion. As the Subcommittees move forward with their consideration of meaningful and

attainable ballast water regulatory policy, it is important to consider: uniformity by flag; a comprehensive federal standard; consideration of our Great Lakes fleet (Lakers); promotion of coastwise shipping; and safety.

## **I. Uniformity by Flag**

When vessel operators decide whether to operate under the U.S.-flag and provide the corresponding landside and seafaring jobs, they consider a number of factors. In addition to taxes, fees, and availability of cargo, federal and state safety and environmental regulatory considerations are paramount. Should there be relaxed operational conditions for vessels flying a foreign flag, it places a prejudicial burden on their U.S. counterparts and their ability to compete in the world market. In order to have its intended environmental benefits and remain equitable, any ballast water regulation applied to vessels operating in U.S. waters should be applied uniformly to both U.S.- and foreign-flagged vessels.

## **II. A Comprehensive Federal Standard**

Under current law, individual states are able to implement their own regulations and establish their own state-specific permits regarding ballast water discharge. In a commercial industry that is international and interstate by nature, it is important that operators are able to understand and comply with the set of laws under which they operate. When federal agencies develop new regulations of this magnitude, they usually consult with leaders in the industry, through public comment, and conduct studies in order to calculate the intended effectiveness and feasibility.

Those measures taken by the federal government ensure that regulations will produce their intended effect and that negative consequences will be minimized. Unfortunately, the individual state permit development process does not always follow the federal model of public comment and involvement of the various industries. Also, it is impossible for the ship operators, who operate in many states, to follow the regulatory processes of each jurisdiction in which they conduct business. Further, with constantly changing laws and regulations, it is difficult for vessel operators to formulate and conduct a sound business plan. Thus, the maritime industry will be well-served by a comprehensive federal standard rather than piecemeal legislation by the states.

State regulations are often implemented in contrast or contradiction to one another. For instance, Michigan law requires vessels to utilize one of four specific types of ballast water treatment systems in order to obtain a permit to operate in their waters. California's regulatory program, on the other hand, addresses the performance of ballast water treatment by mandating that vessel discharges contain microbes no larger than 50 micrometers in size. This standard is 1,000 times more rigorous than the international standard in use by the International Maritime Organization. The discrepancy between, and uncertainty of, state ballast regulations make the building and operation of vessels a cumbersome, confusing, and potentially very costly endeavor.

As Congress moves forward with ballast discharge legislation, it must consider a comprehensive, national approach. With input from the states, as well as environmental, scientific, and maritime communities, a suitable level of ballast discharge regulations can be achieved. This will safeguard the economy surrounding the maritime industry, because piecemeal state legislation

may force U.S.-flagged vessels and their corresponding landside and seafaring jobs out of existence.

### **III. Consideration of Lakers**

We thank the Lakes Carriers Association and the Great Lakes Maritime Task Force for assisting with pertinent facts and figures in the preparation of this testimony.

Vessels that operate exclusively on the Great Lakes require unique consideration because of the particular environment in which they operate.

First, Congress should question the need for any enhanced ballast regulations on those vessels that spend their entire life solely on the Great Lakes. As interconnected bodies of water, ballast is only one of 65 different ways in which invasive species can be introduced and spread throughout the Lakes. Since the Lakers do not leave the system, they have never introduced non-indigenous species into the Great Lakes.

Moreover, the U.S.-flag fleet operating on the Great Lakes has been proactive in their effort to prevent invasive species. Best Management Practices have proven to be effective and the maritime industry welcomes an ongoing partnership with government in order to further protect the ecosystem on the Great Lakes.

Second, most vessels operating on the Lakes rely on a higher level and speedier transfer of ballast water. They are generally in port for less than 12 hours and usually discharge up to 16 million gallons of ballast water at rates of 80,000 gallons per minute. Because of this uniquely rapid transfer, many of the ballast treatment systems proposed for their coastal and inland counterparts are not unsuitable for use on these vessels.

Third, state regulations have the ability to adversely affect the shipping industry on the Lakes. On January 1, 2012, New York State regulations added to the EPA's Vessel General Permit will require that ballast water is as pure as distilled water (similar to that of bottled drinking water) before it can be discharged into state waters. These well intentioned regulations would have the effect of closing the St. Lawrence Seaway, thus disrupting shipping throughout the region and eliminating the waterway's workforce.

Finally, lakers are cost and environmentally efficient, especially when compared to the alternative – transferring the bulky cargo to the already overloaded rail and truck infrastructure. Additionally, since lakers do not come in contact with salt water, their life is considerably longer than their seagoing counterparts. With many years left in their lives, it is unlikely that these older vessels would be able to be integrate the potentially massive ballast treatment systems. There is no system today that could handle the flow rates of Great Lakes vessel discharge. Because of this, and the proposed costs associated with the changes anticipated by the U.S. Coast Guard, the shipping industry on the Lakes, as well as the associated jobs, would be put in jeopardy. In this case, well intentioned environmental priorities would have the unintended effect of pushing cargo to transportation means that are vastly less environmentally friendly than shipping.

Therefore, for the aforementioned reasons, when considering regulations for the Lakes, it is important to consider the unique, region-specific factors and operating parameters.

#### **IV. Promotion of Coastwise Shipping**

Congress and the Administration have strongly supported the development of a vibrant coastwise shipping industry that would supplement and complement the increasingly congested rail and roadways. This energy efficient and environmentally friendly industry would create many new transportation jobs that require little to no federal investment to start and maintain. Like the lakers, these vessels will spend their entire life in the same waters, thus limiting the risk of the introduction of invasive species along the U.S. coastline. Still in its development, Congress should consider coastwise shipping when drafting regulations for vessels that stay within U.S. waters.

#### **Safety**

Foremost in considerations for ballast standards and their corresponding implementation deadlines should be safety. The transfer of ballast water works to alter the vessel's draft, maintain proper propeller immersion, and stabilize the vessel. Both the rate and volume of ballast transfer ensures that the ship remains stable. Should requirements be put in place where improper technology exists, the ship's integrity and the safety of its mariners could be put at risk.

Presently, there is no technology that can safely satisfy the proposed regulations in relation to ballast transfer. In fact, there is simply no technology that would meet the proposed standards.

Creating regulations without the availability of safe, cost-effective technology may prove fatal for the U.S. maritime industry.

## **Conclusion**

American policy makers have long recognized, and history has repeatedly proven, that it is in the best interest of the U.S. to maintain and support a strong, active, competitive and militarily-useful privately-owned U.S.-flag merchant marine industry. Our men and women protect, strengthen and enhance our nation's economic and military security. In times of war or other international emergency, U.S.-flag commercial vessels and their United States citizen crews have responded quickly, efficiently, and effectively to our nation's call, providing the commercial sealift capability and civilian maritime manpower necessary to transport and support American forces overseas. Further, the economic security of the country is dependent on a vibrant foreign and domestic U.S.-flag fleet that is ready, able, and willing to ship our country's goods.

Domestically, U.S. vessels operate more efficiently, safely, and more environmentally consciously than any other means of transportation. Increased promotion of the shipment of goods by the U.S. maritime industry will dramatically reduce the country's transportation environmental footprint. Further, the development of highly skilled, middle-class jobs in today's economic environment is invaluable.

To best serve the economy surrounding the U.S.-flag maritime industry, the United States should develop safe, sound, and economically feasible regulations that affect ballast water transfer.

While considering the needs and availability of ballast water technology, working together we can achieve a high level of environmental standards as well as foster the development of new jobs.

The U.S. maritime labor organizations look forward to working with Members on both the Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources and Environment in order to address the regulatory concerns surrounding ballast water.

