

## Resolution

# Federal Legislation (U.S.) to Protect the Great Lakes-St. Lawrence River from Ballast Water Discharges of Invasive Species

**Whereas**, over 180 aquatic invasive species (AIS) have been introduced into the Great Lakes St. Lawrence River and one of the most important pathways for introduction and movement of these species is ballast water from maritime commerce; and

**Whereas**, remediation of problems caused by AIS is an ongoing and expensive burden on the region and has resulted in significant costs to important sectors of the region's economy, including power generation, water supply, sport and commercial fisheries and tourism; and

**Whereas**, addressing the problem of ballast water and AIS through federal legislation has repeatedly been identified as a top priority of the Great Lakes states in communications to Congress from the Great Lakes Commission, Council of Great Lakes Governors, Great Lakes and St. Lawrence Cities Initiative, Great Lakes Regional Collaboration Strategy To Protect and Restore the Great Lakes and others; and

**Whereas**, Senators Carl Levin and Susan Collins introduced comprehensive legislation in the 109<sup>th</sup> Congress (S. 770), which addressed AIS from ballast water and other vectors and which garnered broad support from the Great Lakes states and others, including some representatives of the shipping industry; and

**Whereas**, Senators Levin and Collins reintroduced in March 2007, the National Aquatic Invasive Species Act of 2007 (S. 725); and

**Whereas**, the lack of federal standards has compelled states to enact ballast water treatment requirements in Michigan and California, and other states are currently considering similar legislation; and

**Whereas**, in an effort to build a regional consensus on a viable regulatory approach to ballast water management and AIS prevention, the Commission convened a special advisory panel of key stakeholders including representatives of industry to examine the range of concerns surrounding ballast water regulation and to establish a slate of consensus-based objectives that should form the basis for any new legislation and the results of these discussions have helped to inform these recommendations to Congress.

**Therefore, be it Resolved** that the Great Lakes Commission ("the Commission") commends and encourages the efforts of the Great Lakes Members of Congress from both parties who have identified federal legislation to control invasive species from ballast water as a high priority for action this year; and

**Be it Further Resolved** that as the Great Lakes states, through the Commission or the Council of Great Lakes Governors or both, and the mayors of the Great Lakes and St. Lawrence Cities Initiative have, since 2005, repeatedly urged that Congress pass and the President sign comprehensive legislation, such as the National Aquatic Invasive Species Act of 2005 (as reflected in S.B. 770, H.R. 1591 and 1592), to prevent the introduction and spread of AIS from all sources; that the Commission renews this request and urges the Great Lakes Congressional Delegation to make passage of legislation that reduces and ultimately eliminates the introduction and spread of AIS from ballast water its top Great Lakes priority in 2007; and

**Be it Further Resolved** that the Commission strongly prefers federal ballast water treatment regulations that would be applied in a uniform and consistent fashion throughout the region, as compared to a jurisdiction-by-jurisdiction approach, provided that a federal program sufficiently protects the unique economic and ecological interests of the Great Lakes states; and

**Be it Further Resolved** that the Commission affirms the position taken by the Great Lakes governors in September 2005 urging Congress to pass legislation to address AIS from all vectors, and that the Commission affirms the provisions in that communication that were either desired or objectionable in proposed legislation under consideration at that time, including objections to the following provisions:

- a clause that pre-empted states from taking steps to protect against damage by invasive species from ballast water;
- a clause that superseded use of any provision of the Clean Water Act with respect to ballast water, and
- a delay for 10 years or longer the application of treatment standards to require that ships in the “no ballast on board” (NOBOB) condition, which are an important vector for invasive species and account for 90 percent of the ships entering the St. Lawrence Seaway; and

**Be it Further Resolved** that the Commission recommends that Congress use S. 725, the National Aquatic Invasive Species Act, as a starting point for a ballast water regulatory program that, when enacted, will meet the needs of the Great Lakes states to protect their economic and environmental interests; and

**Be it Further Resolved** that the Commission recommends that Congress enact ballast water legislation that would achieve the following:

- An immediate requirement that all ships exempted from current regulations because they are in the no ballast on board condition be required to treat residual ballast water by best management practices such as ballast water exchange or other technology; and
- Establishes a ballast water treatment standard regime for ocean-going vessels that includes:
  - the ultimate goal of zero discharge of viable organisms;
  - a requirement to meet an environmentally protective standard within five years following enactment, and
  - a requirement to review technology on a periodic basis both before and after the five-year period to define the best performing technology and to require application of discharge standards based on the performance of the best technology; and

**Be it Further Resolved** that the Commission recommends that federal legislation ensure that contingency planning and activities to control the spread by commercial shipping vessels of any AIS or pathogen introduced in the Great Lakes-St. Lawrence River can be carried out by the states, in coordination with federal agencies; and

**Be it Further Resolved** that the Commission recommends that federal legislation clarify the role of federal agencies so that EPA, the Coast Guard, and the departments of Interior and Agriculture work in a coordinated fashion with the states in developing and administering effective ballast water programs and that EPA should have the lead authority for defining biologically sound and environmentally effective discharge standards and the Coast Guard should have the lead authority for enforcement and for ensuring safe installation and operation of treatment equipment on ships; and

**Be it Further Resolved** that the Commission encourages Canada and the United States to work together to fight AIS by, among other things, harmonizing ballast water regulations and treatment requirements; and

**Be it Finally Resolved** that the Commission encourages all intra-lake and ocean-going commercial shipping vessels to undertake management practices with a goal of preventing AIS that are introduced into the Great Lakes-St. Lawrence River from being spread throughout the system.

Adopted by the Great Lakes Commission at its Semiannual Meeting, May 15, 2007, in Indianapolis, Ind.