

Regulatory Impact Statement

1. Statutory Authority:

This regulatory impact statement (RIS) has been prepared for the revised proposed regulation, 6 NYCRR Subpart 646-9, promulgated by the Lake George Park Commission (Commission). Articles one and two of the State Administrative Procedures Act (SAPA) contain procedural and substantive requirements with which the agencies must comply when proposing and adopting rules.

The Legislature established the Commission as an independent agency and delegated to it broad powers to protect, enhance and regulate the resources of the Lake George Park, and particularly the waters of Lake George. Environmental Conservation Law (ECL) § 43-0117(4) directs the Commission to promulgate regulations relative to the permitting of boats, the regulation of marinas, and the regulation of recreational activities to protect and preserve the water quality of Lake George, and further provides that no person “shall operate any boat or vessel, or undertake any regulated activity without complying with such regulations.” ECL § 43-0107(8) provides that the Commission shall have the power to adopt, amend and repeal rules and regulations, consistent with ECL Article 43, as it deems necessary to administer Article 43, and “to do any and all things necessary or convenient to carry out the purpose and policies of this article and to exercise all powers granted by law.”

2. Legislative Objectives:

The revised proposed regulations would be consistent with the legislative objectives of ECL Article 43 by regulating the use of boats on Lake George to enhance and preserve the quality of those waters for the public benefit. The revised proposed regulations are intended to protect the waters of Lake George from further infestation of Aquatic Invasive Species (AIS) and to reduce the spread and proliferation of the five AIS that are currently found in Lake George.

3. Needs and Benefits:

A. *Lake George Watershed: Description and Condition*

Lake George is a 44 square mile glacially-formed lake in the southeastern portion of the Adirondack Park. It is 32 miles long, has an average width of 1.5 miles and an average depth of approximately 70 feet. Lake George includes approximately 131 miles of shoreline and is fed by more than 150 streams.¹

¹ Shuster et al. “The Hydrologic Budget of Lake George, Southeastern Adirondack Mountains of New York.” *Northeastern Geology* 16.2 (1994): 94-108.

The Lake George Park (Park) was established in 1961 and is essentially contiguous with the watershed boundary for Lake George. The Park is comprised of approximately 100 square miles of State-owned land, primarily “forever wild” Forest Preserve, 155 square miles of privately-owned land, and 45 square miles of water surface, of which about 44 square miles composes the surface of Lake George. The Park is comprised of portions of three counties, including Warren, Washington and Essex, and encompasses the following 12 municipalities: Bolton, Dresden, Fort Ann, Hague, Lake George, Putnam, Queensbury, Ticonderoga, Horicon, Luzerne, Warrensburg, and the Village of Lake George.² Nine of these municipalities border directly on Lake George.

Lake George provides a number of benefits to the surrounding communities and the people of the State of New York. The Lake is the primary supply of drinking water for the Village of Lake George and the Hamlet of Ticonderoga, and is the reserve supply for the Town of Bolton. Lake George is also a drinking water supply to hundreds of commercial resorts and thousands of lakefront properties.

The Lake is a world renowned scenic and natural resource. Enjoying the environs of the Lake contributes to the health and quality of life for tens of thousands of residents and visitors each year. The Lake supports a marine and tourism economy upon which many local residents and communities rely. For example, according to a recent survey of New York State boaters, these individuals spent an estimated \$22.5 million in the Lake George area, generating 450 jobs in the local community in 2003.³ Additionally, a separate study estimated that beach users spend between \$379,000 and \$1.1 million in the Lake George Basin.⁴ Finally, U.S. Census Bureau employment data for the Lake George Park and surrounding hamlets of Ticonderoga and Warrensburg suggest that tourism and recreation were the largest employment sectors in 2006, accounting for over 1,560 jobs, or approximately 21%, of the geographic area’s total employment.⁵

B. *Threat of Aquatic Invasive Species*

This is a discretionary regulatory change implemented to help prevent the spread and proliferation of AIS into Lake George. An aquatic invasive species is defined in the revised proposed regulations at 6 NYCRR 646-9.1 as an aquatic animal or plant species that is (i) nonnative to the waters of Lake George; and (ii) whose introduction causes or is likely to cause

² Morrison, C. C. The Plan for the Future of Lake George Park. The Task Force for the Future of Lake George Park, New York State Department of Environmental Conservation, Albany, New York, 1987.

³ Connely, N.T., et. al., Recreational Boating Expenditures in 2003 in New York State and Their Economic Impacts. Cornell University Department of Natural Resources. Prepared for the New York State Sea Grant, 2004.

⁴ Holmes, T. e. al., Lake George Recreation Study Plan, 2005. Prepared for the Lake George Park Commission, 2006.

⁵ Lake George Park Commission staff analysis of Census LED data for NAICS categories (72: Accommodation and Food Services, and 71: Arts, Entertainment and Recreation) that are largely reflective of the tourism and recreation sectors.

economic or environmental harm or harm to human health. This is consistent with the definition of invasive species in ECL § 9-1703 and the proposed definition set forth in the Department of Environmental Conservation's (DEC) proposed draft regulations prohibiting and regulating invasive species, 6 NYCRR Part 575, which are currently out for public comment.

Lake George has five known AIS. These are Eurasian watermilfoil (EWM), curly-leaf pondweed, spiny water flea, zebra mussels, and Asian clams. The Commission currently manages three of these AIS: EWM, zebra mussels and Asian clams. Absent prevention strategies, dozens of AIS may be introduced into waters Lake George. The primary vector by which these species may arrive is trailered boats coming in from nearby waterways such as Lake Champlain, the Hudson River, and from the Great Lakes and Finger Lakes region. AIS have the potential to cause significant, long-term damage to the Lake George environment and cost millions of dollars to control in the future. These negative impacts could extend to the local tax base and the robust tourism industry.

The cost of managing existing AIS is reported to be a minimum of 16 times higher than the cost of prevention.⁶ Over the last 26 years (1986-2012), it has cost the Lake George community an estimated \$6.5 million dollars to combat EWM, zebra mussels and Asian clams. The future threat of new AIS introductions to Lake George itself is high. The outcome of large or extensive uncontrolled growth of AIS may result in significant impacts to the regional economy. Most AIS are more likely to occur in the "littoral zone" of the lake. This zone is basically described as the shallow water area extending from the shoreline to a point where water depth is approximately ten (10) meters.⁷ This area provides favorable conditions (water temperature, water depths, sediments, etc.) for establishment and growth of AIS to occur. The area of the Lake that meets these parameters comprises approximately 8,058 acres or twenty-nine percent (29%) of the overall water coverage area. This area of the Lake is the location where much of the recreational contact with the water occurs as the littoral zone provides areas for beaches and swimming, docks, and moorings. This area also serves as the primary habitat for many game fish attracting recreational and sport fishermen or "anglers."

The adverse economic effect of future AIS invasions and outbreaks would be most felt along the 3,130 shoreline properties around Lake George and extending through eight (8) municipalities (the Towns of Dresden, Fort Ann, Putnam, Bolton, Hague, Lake George (inclusive of the Village of Lake George), Queensbury and Ticonderoga) within three (3) counties (Washington, Warren and Essex). Additionally, it is acknowledged that the economic impact of AIS may have implications to upland (off-shore) properties. As a practical matter many properties just off the shore have entitlement to some form of water access through deed reference and/or shared use of on shore amenities such as docks, moorings and beaches.

⁶ U.S. Congress, Office of Technology Assessment, Harmful Non-Indigenous Species in the United States, OTA-F-565 (Washington, DC: U.S. Government Printing Office, September 1993).

C. *Benefits of Program*

Early discovery of AIS is critical to implementing a successful controlled action. Early discovery is achieved when there is both an organized surveillance mechanism on the water body as well as evaluation of regional threats that may occur on a regular basis. The revised proposed regulations are needed to reduce the risk of introduction and spread of aquatic invasive species by subjecting all trailered vessels to inspection, and if determined necessary, decontamination prior to launch into Lake George and by requiring boaters exiting Lake George to drain their bilges and clean their hulls and trailers of any visible plant or animal matter. It is anticipated that a mandatory boat inspection program would have a net positive impact on the water quality, ecology, recreational uses and economic health of Lake George by significantly reducing the threat of AIS being introduced into Lake George and causing new ecological impacts. Additionally, the requirement to clean and drain trailered vessels exiting Lake George would help limit the spread of AIS from Lake George to other waterbodies.

The revised proposed regulations would require trailered vessels to visit a regional inspection station in the Lake George watershed and undergo an invasive species inspection of the vessel and trailer. The standard for boats to pass inspection would be “cleaned, drained and dry” (C-D-D), which would work to prevent both visible and non-visible aquatic invasive threats. Inspectors would be authorized by the Commission to enter the interior of boats in order to complete the inspection of all hull compartments. The inspection process would generally be completed in 10 minutes or less.

Boats that do not meet the C-D-D inspection standard would need to be washed and decontaminated at the inspection station with High Pressure Hot Water (HPHW) which would then permit the boat to be launched lawfully into Lake George. There would be no charge for the inspection or decontamination. Hot water washing at a temperature of 140°F or higher has proven to be the fastest and most effective means to destroy juvenile stage mollusks known as “veligers”, or other microscopic life stages of AIS that are part of the invisible spectrum.⁸ Boats with ballast tanks and bilges would need to be drained and possibly flushed with HPHW.

Once the inspection and, if necessary, decontamination process is complete, the boat would be fitted with an inspection tag, called a Vehicle Inspection Control Seal (VICS), securing the boat to the trailer. Trailered vessels with an intact VICS would be permitted to proceed to the marina or other launch site of choice and launch into Lake George. As long as the boat’s VICS is secured/connected to the trailer immediately prior to launch the boat would be able to lawfully launch.

⁷ Boylen, C.W. and A. Kuliopulos, *Further Studies on the Bathymetry of Lake George*, reprinted from *The Lake George Ecosystem*, ed. C.W. Boylen, Lake George Association (1981)

⁸ Comeau, S.R., *Colonization and Decontamination of Quagga Mussels in Western United States: Monitoring Veligers in Lake Mead and Field Testing in the Effects of Hot-Water Spray*

It is also important to reduce the spread of invasive species from boats leaving Lake George. Therefore, owners of boats leaving Lake George would be required to drain the bilge and properly dispose of any visible plants and animals affixed to or found in the boat and its trailer prior to leaving the launch site. This draining procedure should occur at a location where water would not return to the Lake. The standard for boats exiting Lake George at staffed launch sites would consist of a “clean and drained” (C-D) standard. The process to ensure that the boat meets the C-D standard is expected to be very brief, less than one minute and could occur as the boat is being secured to its trailer. It is expected that the boat owner would not be overly inconvenienced by needing to make this inspection. When a boat exiting Lake George is found to meet the C-D standard, it may receive a VICS from the launch operator. These boats would be permitted to re-launch into Lake George without being re-inspected as long as the inspection tag is intact immediately prior to launch.

The proposed mandatory boat inspection program would be most successful if all launch sites around Lake George are included in the program. Based on an inventory of boat launch sites conducted on Lake George in 2012,⁹ there are 100 sites around the Lake that could be used as trailered boat launches. These launch sites are categorized by (1) State and Municipal Launch Sites; (2) Commercial Marinas; (3) Motel/Resort; (4) Homeowners’ Association Launch Sites; and (5) Residential launch sites. Under the revised proposed regulations, it would be unlawful for any person to launch or attempt to launch a trailered vessel into the waters of Lake George during the boating season (April 15 to December 1) without an intact VICS. Boats arriving at a launch site without the proper VICS would be referred to the closest inspection station. Boat owners without a proper VICS would not be able to lawfully launch and the launch of an uninspected trailered vessel would subject the boat owner and launch operator to a fine.

Launch operators would be required to staff or secure their launch sites. When launch sites are not staffed, launch operators would be required to secure their launches in a manner described through a written agreement with the Commission to facilitate compliance with the mandatory inspection program. Such security measures may include, but not be limited to, physical barriers such as gates, chains or other similar barricades, or passive systems that include collection of VICS, signage, registries or surveillance. The manner and method by which the program is operated at each launch site would depend, in part, on the type of launch site.

D. *Public Boat Launch Sites (NYS DEC, LDC, Town)*

There are seven public launch sites around Lake George. Three of these sites are owned by the DEC; one is owned by the Town of Hague; two are owned by the Town of Putnam; and the Town of Bolton and DEC have an interest in Norowal Marina in the Town of Bolton. More

as a Means of Watercraft Decontamination, UNLV Thesis Dissertation/Professional Papers 1008. (2011)

⁹ Rapp, C., *Map of Launch Points on Lake George*, (LPGC Internal Data, unpublished, 2012).

than two-thirds of boat launches occur at three public locations: Mossy Point, Norowal Marina and Roger's Rock. The DEC has sole authority to operate its launch sites and these sites are not subject to a registration or administration process under this program. For purposes of this program, it is anticipated that DEC-owned launch sites would operate under a cooperative working agreement such as a Memorandum of Understanding (MOU) or under the terms of a Temporary Revocable Permit (TRP).

It is anticipated that the three busiest DEC launch sites would be staffed with Commission personnel seven days per week, 9- 24 hours per day through the peak and shoulder seasons to educate boaters, ensure all boats are equipped with an intact VICS and to provide inspection seals for boats being retrieved from the Lake. The proposed DEC boat launch site at Million Dollar Beach, in the Village of Lake George, is also proposed to be staffed by Commission personnel when the launch site is open. Two of these sites, Mossy Point and Roger's Rock, would also be sites of an inspection station.

It is anticipated that the Commission will enter into an MOU with the Towns to resolve security and operational issues at the municipal launch sites. The Commission anticipates staffing the Norowal marina, thereby minimizing the cost to the Town of Bolton.

E. *Private Boat Launch Sites*

Privately owned launch sites, including marinas, motels, homeowners' associations and residential launch sites would be required to register with the Commission. It would be the legal responsibility of these launch operators to ensure that only boats with the proper VICS are allowed to launch and the launch operators of these sites would be required to secure their launch sites in a manner authorized by the Commission. Most businesses already limit launches to business hours so it is anticipated to have little effect on these businesses.

Launch operators would be expected to keep and maintain records of trailered boats that launch from their facilities and to ensure that such boats have been properly inspected prior to launch. Under the proposed program, an employee of the business would be required to check each trailered vessel that is launched from the property to ensure that the boat had an intact VICS. Businesses would also be expected to re-seal any boat retrieved from Lake George that meets the C-D standard to its trailer to allow the boat to re-launch into Lake George without being re-inspected. Launch operators would also be required to keep records of these boats as well as VICs that were not used. These record-keeping requirements are not expected to be extensive or burdensome.

Most businesses that operate a launch site already employ sufficient staff to perform these tasks. Moreover, the Commission is committed to work with the affected businesses to find the most cost-effective solution to implement the revised proposed regulations. Local businesses currently are required to obtain authorization or permits from the Commission for their marina activities and prior to constructing and installing docks on their facilities. The

additional interaction with the Commission that would be required by this regulation is therefore not expected to be overly burdensome.

The Commission has already engaged in extensive public outreach concerning the need to address the AIS threats to the Lake George Park and the benefits of a mandatory inspection program for trailered vessels launched in the Lake George Park. The Commission has worked with groups such as the Lake George Association (LGA) and the Fund for Lake George to place placards at rest stops and throughout the region to advise boaters of the need for their vessels to be Clean, Drained and Dry. The Commission has held more than 50 outreach meetings, including three public “open-house” meetings as well as Invasive Species Committee meetings in which the possible mandatory boat inspection was discussed among other options for AIS prevention. The Commission has given presentations on the proposed mandatory boat washing program to such groups as municipal boards, chambers of commerce, marine trade associations and sporting groups.

The Commission held two public hearings in the Lake George Park to address the need for the mandatory trailered vessel inspection program. These meetings included information about how the local governments, businesses, tax payers and recreational users would be affected, along with actions necessary for compliance. The Commission has reviewed the public comment as a result of these meetings and this outreach and has incorporated changes in the revised proposed regulations to address some of the comments. In addition, the revised rulemaking documents include a summary of the comments received. The overwhelming response to the program was positive. The majority of comments centered on funding of the program and the security of the launch sites after hours.

The revised proposed regulations would only apply to trailered vessels that are launched into Lake George. As set forth in more detail in section 8 below, this program is the most effective for minimizing the spread of AIS into Lake George, while minimizing the burden on boaters. The Commission intends to streamline the program as much as possible by providing for exemptions from inspection for those trailered boats whose last launch was in Lake George and by allowing launch operators to determine the best method for securing their launches sites and implementing the program.

The mandatory inspection program would run from April 15 to December 1 of each calendar year. This period is referred to as the “boating season.” Trailered vessels would be permitted to launch into Lake George from December 1 to April 15 without being inspected. Studies have shown that the risk of spreading AIS during this period, December 1 to April 15, is slight.

The Commission would reevaluate the program after the second season following its implementation. The Commission would evaluate the effectiveness of the program, the impacts of the program on tourism, small businesses and local governments, and assess the cost and

funding of the program. To allow for this evaluation, the revised proposed regulations would sunset on December 31, 2015 unless reestablished or modified by further rulemaking.

4. Costs:

A. *Costs to the Commission:*

The proposed mandatory boat inspection program would require an initial source of funds for the Commission for equipment and site development costs. An annual funding program would also be needed for wages and supplies. The site development costs assume that the properties would need minimal improvement: extensive grading would not be required; power and telephone would be available; and most site components would be portable so that if a location is not needed in the future, materials can easily be relocated or removed.

It is anticipated that each inspection site would require a temporary canopy, security fencing for the wash unit, wash pad, gravel driveway, parking, and safety lighting. It is expected that it would cost approximately \$61,600 to set up each inspection site. Total startup costs for all five inspection sites are estimated at just over \$300,000. The annual operational cost per inspection site would vary depending on the demand for services at each location and other factors. Based on the assumptions for staffing and length of season, employee costs for all five inspection stations are estimated at approximately \$677,000 per year, which would include the position of an overall program coordinator at approximately \$80,000 annually (including benefits). Other annual program expenses related to training and uniforms, signage, et cetera are estimated at \$50,000. Funds to support the startup of the program have been sought through the Environmental Protection Fund and other sources. Funds to support the operational costs would have to be generated on an annual basis from a consistent source.

There is presently no permanent source of funding to address the critical issue of AIS prevention in Lake George. The Commission has limited choices for funding the program from within based upon present revenues. The majority of revenues for Commission activities are derived from annual dock and boat fees. Revenues from boat registrations account for approximately 59 percent of total fees collected by the Commission.

Feasible opportunities to create a consistent revenue stream capable of supporting the mandatory boat inspection program have been evaluated. The possible sources of funding for the mandatory boat inspection program that were a part of this analysis include:

- Increased boat fees;
- New inspection and decontamination fees;
- Use of a portion of Warren County sales tax;
- Use of a portion of the Warren County occupancy tax;
- Use of a portion of the mortgage recording tax;
- Use of a portion of gasoline tax;

- Creation of a Lake George Park Special District;
- Funds from the NYS General Fund;
- Dedicated funds from the Environmental Protection Fund;
- Federal and state grants; and
- Regular contributions from municipalities, private donations, and non-profit donations.

For the limited duration of these regulations, it is anticipated that half the necessary funding for the mandatory boat inspection program would be gifted by the S.A.V.E. Lake George Partnership comprised of local governments and non-profits, and it is anticipated that the remainder of the funds would be provided from state funding sources.

B. *Costs to Boaters*

During the duration of these revised proposed regulations, the Commission proposes not to charge a fee for the inspection or, if necessary, decontamination of a trailered vessel. The Commission would evaluate the need for a fee and the impacts to boaters after the second boating season.

C. *Costs to Businesses and Local Governments*

The revised proposed rule would require private launch owners to monitor their launch sites and ensure that all trailered boats launching from that site have been inspected. The revised proposed regulations would require launch operators to secure their launch sites during off-hours to prevent an uninspected trailered vessel from launching in Lake George. The revised proposed rule would also require launch operators to register their launch sites with the Commission prior to allowing any launches into Lake George.

The costs for compliance for marinas and other businesses around Lake George with launch sites would be the cost of additional personnel, if any, to monitor launch sites and maintain records, and the cost to secure the business's launch site during off- hours. These costs are not expected to be overly burdensome. Most businesses that operate a launch site already employ sufficient staff to perform these tasks and most marinas and other launch operators also require a fee from boaters prior to them launching from these facilities. In addition, these facilities are usually closed during off- hours. Moreover, each launch operator would be permitted to use whatever method it chose, with the Commission's authorization, to secure its launch site, thus allowing the property owner to use the most cost-effective means available to comply with the rule.

Municipal launches may incur some slight additional costs to voluntarily operate the proposed boat inspection program on their launch sites. The Town of Hague is not expected to require any additional personnel to operate the program because it previously employed a boat steward to assist at its launch. The Town of Putnam may need to hire two additional personnel to monitor boats coming in and out of Lake George at its launch sites. The Commission anticipates entering into an MOU with these towns to resolve security and operational issues at

these municipal launch sites. The Commission anticipates staffing the Norowal marina, thereby minimizing the cost to the Town of Bolton. These Towns would not be required to register with the Commission or keep the same records as the private launch operators.

Requiring boat inspections may also cause some potential tourists to stay away from Lake George or choose to visit the Lake less frequently. This would have impacts on tourism and the regional economy. Data from other lakes with inspection programs indicate that changes in boat usage after mandatory boat inspections are implemented is minimal or is within the annual variability.¹⁰

5. Local Government Mandate:

The revised proposed regulations do not impose a mandate on local governments. The requirements which apply to private launch operators as discussed above in section four would not apply to public launch sites or any owner of a launch that is staffed by employees of the Commission. It is anticipated that the Commission would enter into written MOUs with the municipalities that own public launch sites to implement the proposed program at those launch sites.

6. Paper Work:

The revised proposed regulations impose minimal regular reporting requirements on launch operators. They would require registered launch operators to keep monthly records of trailered vessels that have launched from their properties and those that leave their properties after being retrieved from Lake George. It is anticipated that the Commission would enter into written agreements with municipalities and DEC and any other state agencies to arrange for the recording of trailered vessels that launch, or are retrieved, from municipal and State-owned launch sites.

7. Duplication:

This revised proposed regulation would cause not no significant duplication of existing state or federal rules. The Commission currently has a regulation prohibiting any person from launching a vessel into the Lake without inspecting the boat and trailer for marine growth or any other hull contamination to ensure that such items are not discharged into the waters of Lake George. (6 NYCRR § 646-1.7(h)). The revised proposed rule would expand and strengthen this prohibition by prohibiting the introduction of any AIS into Lake George and by requiring mandatory boat inspections of the entire, not just the hull, prior to launching into Lake George.

Warren County passed an Aquatic Invasive Species transport law in 2011 and amended it in 2013 making it illegal to introduce and transport aquatic invasive species into all Warren

¹⁰ The Affects of Mandatory Boat Inspections on Recreational Boating; Brad Wright; University of Northern Colorado; 2009.

County water bodies. A similar law has been passed in Essex County applying only to the waters of Lake George. Washington County also recently passed a similar law. These laws, however, do not require mandatory boat inspections prior to launching into Lake George.

DEC has broad oversight of the natural environment. Management of AIS may involve some distinctly different sets of laws and rules as it relates to DEC mandates. ECL § 9-1705 provides for the establishment of a New York Invasive Species Council (NYISC) comprised of representatives of DEC, Department of Agriculture and Markets, Department of Transportation, Office of Parks Recreation and Historic Preservation (OPRHP), Department of Education, Department of State, Thruway Authority, Canal Corporation, and Adirondack Park Agency representatives. The NYISC has issued two reports; one in 2005 and one in 2010 on invasive species in New York State, and a concept plan to manage invasive species. In 2012, the Legislature amended ECL § 9-1709, and assigned specific duties to DEC in cooperation with other state agencies, to restrict the sale, purchase, possession, population introduction, importation, transport, and disposal of invasive species. DEC has proposed draft regulations for the introduction, importation, transport and disposal of invasive species, 6 NYCRR Part 575, which are currently subject to public review and comment and expected to be finalized in the 2014 calendar year.

DEC has additional statutory authority related to the control of AIS including ECL Article 24-Freshwater Wetlands; ECL Article 33, Pesticides; ECL Article 17, Title 8-State Pollutant Discharge Elimination System (SPDES); ECL Articles 11 and 13-Fish and Wildlife; and ECL Article 15, Title 5-Protection of Waters. None of these laws, however, provide for mandatory boat inspections prior to launching into Lake George.

8. Alternatives:

A. *No Action*

Although the “No Action” alternative would be the least costly and would require no regulatory or legislative enactments, it would simply continue the current voluntary program, thereby continuing the high risk of introduction of new aquatic invasive species into the Lake.

B. *Enhanced Voluntary Compliance*

An enhanced voluntary prevention alternative was considered by the Commission. It would be a proactive, non-regulatory approach that builds upon the existing framework of two key initiatives: public outreach and a non-regulatory boat launch “steward” program in which staff people trained in AIS prevention interact with boaters at the primary launch sites on Lake George. It would also involve a considerable effort to educate boaters and users on the “Cleaned, Drained and Dry” protocol for boats coming to Lake George through both print and electronic initiatives. This program has been funded by the LGA through grants and donations, including a sizeable grant from the Commission. Boat inspections would be conducted by trained boat launch stewards from the LGA’s Lake Steward Program. Once stewards are

granted permission by the boat owner, they would commence inspecting the exterior of the boat for visible materials.

Currently, it is estimated that lake stewards interact with approximately 40-60% of the launch sites on Lake George. To date, this program has taken place on the major launch sites only, however, and has not affected all launches at municipal launch sites, hotels and motels, marinas or other private launch sites. While this program has been very good at educating a good portion of visiting boaters about the threats of aquatic invasive species to Lake George, and also for identifying and removing visible aquatic species on boats and trailers, the program could be improved through expanding seasonal coverage; expanding the number of launch sites around the Lake; expanding the hours per day; training marinas and other possible launch site managers in AIS identification and prevention, to have them do the inspections themselves, and increasing the Commission's Marine Patrol presence at launch sites to assist in compliance with existing Commission AIS prevention regulations and the local AIS transport laws. It is expected that enhancing the program in this way would increase the number of boaters who come into contact with a steward to 80%. The program would require relatively little additional expense over the current program would require no legislative or statutory authority.

This enhanced program would still be limited, however, because the inspection process is cursory, and limited to visual plant and animal matter only. Without a regulation requiring boats to be fully inspected and dry prior to launch, there is no means to verify that the boat is not carrying juvenile invasive species in areas where water could be stored on the boat (bilge, baitwell, motor, ballast tanks, etc.). Reliance on voluntary compliance creates gaps in prevention levels. Indeed, since the development of the voluntary inspection program, two new invasive species have been discovered in Lake George. The program also does not provide decontamination if a boat is found to be in need of decontamination washing. The Lake Steward must convince the boater to take the time to go through the process primarily by appealing to the individual's desire to do the right thing.

C. Regulatory Self-Certification

A regulatory self-certification program to prevent aquatic invasive species would consist of new regulations requiring boaters to "self-certify" that they would not launch a boat into Lake George without first having met a set of standards related to AIS prevention, under penalty of law. A program such as this might consist of three key components: (1) new regulations requiring all boaters in Lake George to certify that their boat is free of invasive species prior to launch into Lake George; (2) creation of a computer-based training and certification module which individuals would undertake and complete; and (3) enhanced enforcement to help ensure compliance with this program among the boating public in Lake George. The computer-based training and certification module would be coupled with a program which would allow the creation of a self-certification form (hard copy or digital), which boaters would use to demonstrate compliance with the provisions of the program.

The program would require significant public education and outreach, assurance or appropriate training (proven by passing an online test or similar certification), as well as proof of compliance (through a hard copy or digital document which can be shown to enforcement personnel) and enforcement. Any boat entering Lake George without proof of meeting the C-D-D protocol would be subject to a penalty. Enforcement would occur at all launch sites on Lake George, based upon the level of funding afforded to the compliance part of the program. Assigning officers to patrol existing boat launch sites around Lake George could cost approximately \$100,000 - \$150,000 annually, depending upon level of enforcement. In addition, there would be a one-time cost for setting up the computer program of an estimated \$50,000-\$75,000 plus annual software maintenance costs of approximately \$10,000 - \$15,000.

Self-certification programs by their very nature rely considerably on public awareness of the program and also the perceived penalty for non-compliance. Making the boating public aware of the new self-certification regulations would be a significant task, particularly when enforcement of such a program would by necessity not cover all launch sites at all times.

AIS introduction under the self-certification alternative, although slowed, would be expected to continue. Although the *rate* of contamination may be lowered, it is anticipated that the net impact to recreation, tourism and waterfront property values would be as if the Commission had taken no additional steps to prevent AIS from entering Lake George.

D. Regulatory Mandatory Boat Inspection with After-Hours Self-Certification

The Regulatory Mandatory Boat Inspection with After-Hours Self-Certification Alternative is a blend of the proposed mandatory trailered vessel inspection and decontamination program with a self-certification program. The program would operate the same as the proposed program except that during unstaffed hours at launch sites, boaters would be allowed to forego inspection and launch their boat, provided they have a self-certification form as proof of meeting the C-D-D protocol. This self-certification would follow the program description described above.

Implementing a full mandatory inspection program during the day would provide the greatest protection to the Lake during what are currently the heaviest traffic times at launch sites. Under the mandatory inspection program, boats that do not have an intact inspection tag could not lawfully launch during after-hours. Boats that require inspection would be subject to the time constraints of the inspection stations. A self-certification program during after-hours would alleviate the problem of boaters arriving at launches without an inspection tag during these hours. Both mandatory inspection and the self-certification protocol would serve to educate boaters about the C-D-D protocol.

However, by blending mandatory inspection with after-hours self-certification many of the benefits of each of these programs would be compromised. Moreover, this alternative would represent the most expensive program. Providing a self-certification program for after-hours

launching in addition to the proposed mandatory trailered vessel inspection program would significantly increase the cost of this program. In addition to the infrastructure required for the mandatory boat inspections, the Commission would incur the cost of implementing the self-certification software program and annual maintenance costs for the computer program. There is also the concern that boaters would deliberately launch during nighttime hours thereby eroding the effect of mandatory boat inspections.

E. Inclusion of Non-Motorized Watercraft

Commission regulations at 6 NYCRR 645-7.7(b) currently exempt non-motorized vessels less than 18' in length from the existing requirement for annual boat registrations. The Commission could undertake a mandatory registration program for non-motorized watercraft by requiring a \$5 decal fee for non-motorized boats less than 18'. This program could be implemented by itself, or in concert with any other AIS alternatives evaluated and described above. The registration process would follow the Commission's existing boat registration process whereby an aquatic invasive species boat decal would need to be annually purchased from the Commission or one of its authorized vendors, and this decal affixed to the vessel prior to placing the vessel on the waters of Lake George. Boats that are already required to register with the Commission would be exempt from the AIS decal program. Such a program would raise awareness of the AIS situation in the Lake George Park and would raise additional funds dedicated to AIS spread prevention measures.

The program, however, would be an increased inconvenience and cost to the boating community, many of whom have multiple small craft that would be required to register. It is expected that the number of boat registrations would increase by approximately 25.5 percent requiring an additional approximately \$5,000 in administrative costs. Moreover, if the program were to extend to all the waters of the Lake George Park the enforcement area would increase as a number of lakes within Park are non-motorized vessels only. Compared with their motorized counterparts, non-motorized vessels such as kayaks and canoes—which have few moving parts, limited water carrying capacity, are generally inverted for overland transport, and are stored on land (not in the water) between voyages—represent a relatively small risk of AIS transport. As such, the costs/benefits of educating this boating community do not warrant implementing this alternative at this time.

9. Federal Standards:

There are currently no applicable federal standards related to the proposed program.

10. Compliance Schedule:

Following the notice of adoption in the State Register, the regulated community would be required to comply with the proposed regulations as of May 15, 2014. Thereafter, the regulations will be enforced during the boating season, April 15 to December 1.