

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

INDUSTRIAL DIVISION

State Disposal System (SDS) Permit MNG300000
Ballast Water Discharge General Permit

ISSUANCE DATE:

EXPIRATION DATE:

The state of Minnesota, on behalf of its citizens through the Minnesota Pollution Control Agency (MPCA), authorizes the Permittee to discharge ballast water to Minnesota state waters of Lake Superior in accordance with the requirements of this permit and the Notice of Coverage (NOC) that accompanies this permit. The NOC details requirements in this permit specific to the vessel for each Permittee and is an enforceable part of this Permit.

The goal of this permit is to protect water quality in accordance with Minnesota statutes and rules, including but not limited to Minn. Stat. chs. 115 and 116, Minn. R. chs 7001, 7050, and 7052.

This permit is effective on the issuance date identified above and expires at midnight on the expiration date identified above.

Signature:

Michael (Mike) J. Tibbetts, Manager
Land and Water Quality Permits Section
Industrial Division

for The Minnesota Pollution Control Agency

Permit Required Submittals:

<u>Submittal</u>	<u>Receipt deadline</u>
Ballast Water Treatment Plan.....	180 days prior to implementation of treatment technology
Discharge Monitoring Report.....	January 21 of each calendar year
Ballast Water Report Form/Pre-entry Information from Foreign Flagged Vessels Form.....	24 hours prior to arrival in Minnesota port

PART 1. GENERAL BALLAST WATER PERMIT APPLICABILITY

- 1. Applicability Criteria**

This permit applies to all vessels transiting the Minnesota State waters of Lake Superior that meet all of the following criteria:

 - a. Vessels designed, constructed, or adapted to carry a minimum ballast water capacity of 8 cubic meters or more; and
 - b. Vessels 50 meters in length or more.

- 2. Applicability Criteria**

Persons wishing to discharge ballast water from any vessel into Minnesota State waters of Lake Superior under this General Permit must meet all discharge criteria listed below:

 - a. The discharge meets the limits and monitoring requirements in this permit; and
 - b. The discharge of ballast water will not violate surface water quality standards (Minn. R. 7050.0150, 7052.0100).

Vessels that fail or have failed to comply with a regulation, permit schedule, or compliance order issued by the MPCA may be excluded from coverage under the general permit and required to apply for coverage under an individual permit.

- 3. Exclusions**

The following vessels are not subject to the requirements of this permit and do not need to obtain permit coverage:

 - a. Vessels that carry ballast water in permanently sealed ballast water tanks that are not subject to discharge;
 - b. Vessels which only operate within the Duluth Captain of the Port (COTP) Zone established by the U.S. Coast Guard;
 - c. Vessels which only discharge ballast water directly to an on-shore ballast water treatment facility or intermediate transfer vessel;
 - d. Vessels which implement flow-through or flush ballast water management techniques approved by the MPCA; and
 - e. Vessels of the Armed Forces as defined in CWA § 312(a)(14), and 33 U.S.C. § 1322(a)(14).

PART 2. GENERAL BALLAST WATER PERMIT AUTHORIZATION

- 4. Authorization**

This permit authorizes, subject to the terms and conditions of this permit, the discharge of ballast water to and transit through Minnesota State waters of Lake Superior after receiving a written NOC from the MPCA.

- 5. Authorization**

A vessel is authorized to discharge under this General Permit only after:

 - a. The owner/operator of the vessel seeking authorization to discharge under this general permit has on file at the MPCA all necessary application forms to be covered under the general permit; and
 - b. The owner/operator has received a written NOC from the MPCA indicating that coverage has been granted.

6. Authorization

The written NOC from the MPCA will include:

- a. Vessel name and IMO number if applicable;
- b. Vessel owner and operator;
- c. A description of the vessel, including the vessel dimensions and maximum ballast water capacity; and
- d. The designated position or officer on board the vessel in charge of ensuring that ballast water management requirements are properly implemented.

The written NOC, or a duplicate, shall be retained on board the vessel when transiting Minnesota State waters of Lake Superior.

7. Authorization

A revised written NOC may be issued by the MPCA, after review of the Ballast Water Treatment Plan required by this permit, to include:

- a. A description of the ballast water treatment technology to be implemented;
- b. Applicable monitoring requirements in accordance with Table B; and
- c. Additional monitoring requirements, as deemed appropriate by the MPCA, based on the specific ballast water treatment technology to be implemented.

8. Prohibited Discharges

The discharge of ballast water is prohibited in those portions of Lake Superior north of latitude 47 degrees, 57 minutes, 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and west of the Minnesota-Michigan boundary; or to Department of Natural Resources designated scientific and natural areas (SNAs), specifically Butterworth Cliffs SNA, Iona's Beach SNA, Minnesota Point Pine Forest SNA, and Sugar Loaf Point SNA. See appendix for maps of prohibited areas.

9. Prohibited Discharges

This permit does not authorize a discharge of non-suspended sediment from ballast water tanks to Minnesota State waters of Lake Superior.

10. Prohibited Discharges

This permit does not authorize a discharge of ballast water to Minnesota harbors of Lake Superior from vessels fully ballasted with sea water unless the vessel can demonstrate to the satisfaction of the MPCA that the discharge will comply with Minn. R. 7050.0211 and Minn. R. 7052.0210. This provision ensures that a discharge of ballast water to Minnesota harbors of Lake Superior will not jeopardize the continued existence of the harbor aquatic ecosystem.

PART 3. BALLAST WATER AND SEDIMENT MANAGEMENT PLAN, BALLAST WATER TREATMENT**11. Ballast Water
and Sediment
Management
Plan**

The Permittee shall maintain, and revise as necessary, a Ballast Water and Sediment Management Plan designed to minimize the discharge of aquatic invasive species. The Plan may be developed in accordance with Appendix A of the current U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) and must include, at a minimum, the following:

- a. Operation and maintenance procedures for the vessel and crew associated with ballast water management;
- b. Actions for implementing ballast water management requirements and practices in accordance with this permit;
- c. Detailed ballast system fouling maintenance and sediment removal practices;
- d. The disposal method for non-suspended sediment and other residual solids associated with ballast tank operation that will not result in unlawful pollution of Minnesota's air, surface water or ground water, or create nuisance conditions;
- e. The designated position or officer on board the vessel in charge of ensuring the plan is properly implemented;
- f. Detailed reporting requirements for ports the vessel may visit, specifically ports in Minnesota waters of Lake Superior; and
- g. A translation of the Plan into English if the vessel's working language is another language.

The Permittee shall maintain the current copy of the Ballast Water and Sediment Management Plan on board the vessel when transiting Minnesota State waters of Lake Superior and shall make the Plan available to the MPCA upon request.

**12. Ballast Water
Treatment
Schedule**

Ballast water treatment shall be implemented according to the following schedule:

For vessels constructed prior to January 1, 2012, and meeting the applicability criteria in Part I, treatment shall be installed and operational to meet the performance standards for organisms included in Table A by January 1, 2016.

For vessels constructed after January 1, 2012, and meeting the applicability criteria in Part I, treatment shall be installed and operational to meet the performance standards for organisms included in Table A prior to commencement of vessel operation in Minnesota State waters of Lake Superior.

**13. Ballast Water
Treatment Plan**

At least 180 days prior to the installation of ballast water treatment, the Permittee shall submit to the MPCA (Water Quality Submittal Center) for review and approval, the Ballast Water Treatment Plan to meet the performance standards for organisms included in Table A. The Ballast Water Treatment Plan shall include, at minimum:

- a. The type of treatment technology or technologies to be implemented, including manufacturer name and contact information;
- b. The design summary used for equipment sizing and selection;
- c. Drawings showing the proposed location on the vessel for the treatment system;
- d. Documentation that shows the treatment technology is capable of meeting the performance standards in Table A;
- e. Appropriate operating procedures to ensure the treatment technology is performing properly;
- f. A sampling plan, including analytical methodologies, laboratory controls, and reporting schedule, necessary to comply with the applicable effluent limits in Tables A and B;
- g. Plans and specifications for the treatment system and associated piping, including any necessary vessel modifications to accommodate the treatment system;
- h. Sample port location and design, consistent with the U.S. Coast Guard Research and Development Center's "Development Methods for Biological Injection and Sampling from Fluid Lines," dated August 2005 or equivalent, to ensure a representative sample of treated ballast water can be obtained; and
- i. The proposed schedule for implementation of the treatment technology.

**14. Freshwater
Validation**

Treatment system performance relative to the performance standards in Table A shall be confirmed according to U.S. Environmental Protection Agency's (EPA) Environmental Technology Verification Program protocols, or equivalent, at a freshwater research, development and technology evaluation facility prior to implementation onboard a vessel.

**15. Freshwater
Validation**

Treatment systems which do not perform adequately in freshwater testing shall not be approved for installation on board a vessel.

**16. Emergency
Situations**

Persons wishing to discharge ballast water from vessels shall comply with all conditions included in this permit, except when ballast water discharge is necessary to ensure the safety of the vessel in an emergency situation or saving a life.

PART 4. RECORD KEEPING AND REPORTING**17. Ballast Water
Log Book**

The owner or operator of a vessel shall maintain, in English, on board the vessel, a ballast water log book in which each operation of the vessel involving ballast water or sediment discharge is recorded as required by the commissioner. The ballast water log book shall be kept readily available for examination by an authorized employee or agent of the MPCA. In cases where a vessel is without a crew and being towed, the ballast water log book may be kept on the towing vessel.

**18. Ballast Water
Log Book**

The ballast water log book shall include, at a minimum:

- a. Each entry in the ballast water log book shall be signed and dated by the officer in charge of the ballast water operation recorded; and
- b. Each completed page in the ballast water log book shall be signed and dated by the owner or operator of the vessel.

**19. Ballast Water
Log Book**

The ballast water log book, or a duplicate, shall be retained on board the vessel for three years after the date on which the last entry in the book is made and shall be retained under the control of the vessel's owner for an additional three years.

20. Reporting

Ballast water reporting is required for all vessels meeting the permit's applicability criteria, which includes vessels that operate exclusively within the Great Lakes as well as those that operate both within and outside the Great Lakes.

A ballast water report shall be filed prior to arrival in a port within Minnesota State waters of Lake Superior, whether or not ballast water will be discharged from tanks while in Minnesota waters.

The Permittee shall submit to the MPCA, either electronically (e-mail address), by fax (fax #), or by postal service, the U.S. Coast Guard Ballast Water Reporting Form (OMB form Control No. 1625-0069) at least 24 hours prior to arrival at a port within Minnesota State waters of Lake Superior. If the voyage is less than 24 hours, the Permittee must report before departing the port or place of departure and estimate the tanks to be discharged. An amended form may be filed prior to leaving the port within Minnesota waters of Lake Superior to report the actual ballast water discharge if it differs from the estimated ballast water discharge.

Non-U.S. or Canadian Flag vessels, in lieu of completing the U.S. Coast Guard Ballast Water Reporting Form, may complete the ballast water information section of the St. Lawrence Seaway required "Pre-entry Information from Foreign Flagged Vessels Form" and submit it to MPCA.

Copies of the Ballast Water Reporting Form/Pre-entry Information from Foreign Flagged Vessel Form shall be maintained in the Ballast Water Log Book.

If electronic record keeping methods are used, those methods shall comply with applicable standards of the state and the National Institute of Standards and Technology governing reliability, integrity, identity authentication, and nonrepudiation of stored electronic data.

21. Reporting

The Permittee shall submit to the MPCA by January 21 of each calendar year the Discharge Monitoring Reports (DMR) for the previous calendar year. Submittals shall be made either electronically (e-mail address), by fax (fax #), or by postal service.

22. Reporting

The Permittee shall submit monitoring results for discharges in accordance with the limits and monitoring requirements in Table B of this permit. If no discharge occurred during the reporting period, the Permittee shall check the "No Discharge" box on the DMR.

PART 5. SURFACE DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**TABLE A – Biological Performance Standards for Ballast Water Treatment Technology¹**

Parameter²	Limit	Limit Type	Sample Type
Organisms > 50 µm in minimum dimension	< 10 viable organisms per m ³	Daily Average	Composite
Organisms 10 – 50 µm in minimum dimension	< 10 viable organisms per mL	Daily Average	Composite
Escherichia coli	< 250 cfu/100 mL	Daily Average	Composite
Intestinal enterococci	< 100 cfu/100 mL	Daily Average	Composite

Note 1 - **The MPCA reserves the right to sample from any vessel discharging ballast water to Minnesota State waters of Lake Superior for the parameters listed below.**

Note 2 - Analysis required by the above table shall be performed consistent with the protocols currently being validated by the EPA Environmental Technology Verification Program (EPA/U.S. Coast Guard/Naval Research Laboratory) and/or the following Great Ships Initiative protocols:

Procedure for Algae/Small Protozoan Sample Analysis, Procedure for Zooplankton Sample Analysis, Procedure for the Detection and Enumeration of Enterococci by Membrane Filtration, Procedure for Microbial Analysis using the Heterotrophic Plate Count Method, and Procedure for the Detection and Enumeration of E. coli by Membrane Filtration available online at <http://www.nemw.org/GSI/protocols.htm>

TABLE B – Water Quality-Based Effluent Limitations and Monitoring³

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency
Total Residual Oxidants		mg/L	Quarterly maximum	Jan-Dec	Grab	1/quarter during discharge
Dissolved Oxygen		mg/L	Quarterly minimum	Jan – Dec	Grab	1/quarter during discharge
Temperature		Temp (°F)	Quarterly maximum	Jan – Dec	Continuous	Once during every discharge

Note 3 - Effluent limitations and monitoring may be imposed dependent on the type of treatment technology installed. These limitations will be effective on the operation date of ballast water treatment technology.

PART 6. DISCHARGE SAMPLING AND ANALYSIS

23. **Surface Discharges** Samples for surface discharge stations shall be taken at a point(s) representative of the discharge to surface waters.

24. **Total Residual Oxidants** "Daily Maximum" for Total Residual Oxidants, measured as Total Residual Chlorine (TRC), concentration limits means:

- The value of a single sample in a 24-hour period if the concentration of TRC in that sample is 0.038 mg/L or less, or below the Reportable Limit (RL).
- If the concentration of TRC in the first sample is greater than the applicable limit in part a of this permit condition, the average of two to twelve samples analyzed in a 24-hour period is allowed. The second sample must be taken two hours after the first sample and subsequent samples are to be taken at one-hour intervals thereafter, not to exceed a total of twelve samples in a 24-hour period. Values below the RL for TRC are assumed to be zero for averaging purposes only.
- The average value of multiple daily TRC effluent sample analyses must meet the 0.038 mg/L limit described in part a of this permit condition.

25. **Total Residual Oxidants** TRC must be analyzed immediately. This means within 15 minutes or less of sample collection.

26. **Total Residual Oxidants** A Method Detection Limit (MDL) must be established for this parameter.

27. **Total Residual Oxidants** The RL must be established for this parameter in accordance with 40 CFR pt.136. This should be based on the MDL and laboratory, analyst, and equipment used in the analysis. The Reportable Limit cannot be greater than 0.038 mg/L.
28. **Total Residual Oxidants** The MDL and RL should be reassessed when the method, equipment, laboratory, or analyst changes.
29. **Total Residual Oxidants** Monitoring results below the RL should be reported as "<" the RL. For example, if the RL is 0.2 mg/L and a parameter is not detected at a value of 0.2 mg/L or greater, the concentration shall be reported as "<0.2 mg/L." The symbol "<" means "less than."
30. **Total Residual Oxidants** The equipment should be checked against a known standard at least quarterly.

PART 7. GENERAL REQUIREMENTS

31. **General Requirement** Incorporation by Reference. The following applicable state laws are incorporated by reference in this permit, are applicable to the Permittee, and are enforceable parts of this permit: Minn. R. ch 7001, 7050; and Minn. Stat. ch. 115 and 116.
32. **General Requirement** The Permittee shall perform the actions or conduct the activity authorized by the permit in compliance with the conditions of the permit and, if required, in accordance with the plans and specifications approved by the MPCA.
33. **General Requirement** Toxic Discharges Prohibited. Whether or not this permit includes effluent limitations for toxic pollutants, the Permittee shall not discharge a toxic pollutant except according to Minn. R. 7050.0100 to 7050.0220 and 7052.0010 to 7052.0110 (applicable to toxic pollutants in the Lake Superior Basin) and any other applicable MPCA rules.
34. **General Requirement** Nuisance Conditions Prohibited. The Permittee's discharge shall not cause any nuisance conditions including, but not limited to: floating solids, scum and visible oil film, acutely toxic conditions to aquatic life, or other adverse impact on the receiving water.
35. **General Requirement** Property Rights. This permit does not convey a property right or an exclusive privilege.

- 36. General Requirement** Liability Exemption. In issuing this permit, the state and the MPCA assume no responsibility for damage to persons, property, or the environment caused by the activities of the Permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under this permit. To the extent the state and the MPCA may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act.
- 37. General Requirement** The MPCA's issuance of this permit does not obligate the MPCA to enforce local laws, rules, or plans beyond what is authorized by Minnesota Statutes.
- 38. General Requirement** Liabilities. The MPCA's issuance of coverage under this permit does not release the Permittee from any liability, penalty or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.
- 39. General Requirement** The issuance of this permit does not prevent the future adoption by the MPCA of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the Permittee.
- 40. General Requirement** Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- 41. General Requirement** Compliance with Other Rules and Statutes. The Permittee shall comply with all applicable air quality, solid waste, and hazardous waste statutes and rules in the operation and maintenance of the vessels ballast water system when operating in Minnesota State waters of Lake Superior.
- 42. General Requirement** Inspection and Entry. When authorized by Minn. Stat. § 115.04; 115B.17, subd. 4; and Minn. Stat. § 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the Permittee to enter at reasonable times upon the property of the Permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the vessel covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the vessel covered by the permit or pertaining to the activity covered by the permit.
- 43. General Requirement** Representative Sampling. Samples and measurements required by this permit shall be conducted as specified in this permit and representative of the discharge or monitored activity.

- 44. General Requirement** Additional Sampling. If the Permittee monitors more frequently than required, the results and the frequency of monitoring shall be reported on the DMR or another MPCA-approved form for that reporting period.
- 45. General Requirement** Analyses of dissolved oxygen, pH, temperature and total residual oxidants (chlorine, bromine) do not need to be completed by a certified laboratory but shall comply with manufacturers specifications for equipment calibration and use. (Minn. Stat. § 144.97 through 144.98 and Minn. R. 4740.2010 and 4740.2050 through 4740.2120)
- 46. General Requirement** Sample Preservation and Procedure. Sample preservation and test procedures for the analysis of pollutants shall conform to 40 CFR pt. 136.
- 47. General Requirement** Equipment Calibration: Flow meters, pumps, or other flow monitoring equipment used for purposes of discharge reporting and determining compliance with the permit shall be checked and/or calibrated for accuracy at least twice annually.
- 48. General Requirement** Maintain Records. The Permittee shall keep the records required by this permit for at least three years, including any calculations, original recordings from automatic monitoring instruments, and laboratory sheets. The Permittee shall extend these record retention periods upon request of the MPCA. The Permittee shall maintain records for each sample and measurement. The records shall include the following information (Minn. R. 7001.0150, subp. 2[C]):
- a. The exact place, date, and time of the sample or measurement;
 - b. The date of analysis;
 - c. The name of the person who performed the sample collection, measurement, analysis, or calculation;
 - d. The analytical techniques, procedures and methods used; and
 - e. The results of the analysis.
- 49. General Requirement** Completing Reports. The Permittee shall submit the results of the required sampling and monitoring activities on the forms provided, specified, or approved by the MPCA. The information shall be recorded in the specified areas on those forms and in the units specified. (Minn. R. 7001.1090, subp. 1[D]; Minn. R. 7001.0150, subp. 2[B]) Required forms may include: Supplemental Report Form (Supplemental) Individual values for each sample and measurement must be recorded on the Supplemental which, if required, will be provided by the MPCA. Supplementals shall be submitted with the appropriate DMRs. You may design and use your own Supplemental; however it must be approved by the MPCA. Note: Required Summary information MUST also be recorded on the DMR. Summary information that is submitted ONLY on the Supplemental does not comply with the reporting requirements.

50. General Requirement

DMRs and Supplementals shall be submitted to:

MPCA
Attn: Discharge Monitoring Reports
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

DMRs and Supplementals shall be postmarked by January 21 of each calendar year. A DMR shall be submitted for each required station even if no discharge occurred during the reporting period. (Minn. R. 7001.0150, subps. 2[B] and 3[H])

Other reports required by this permit shall be postmarked by the date specified in the permit to:

MPCA
Attn: WQ Submittals Center
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

51. General Requirement

Incomplete or Incorrect Reports. The Permittee shall immediately submit an amended report or DMR to the MPCA upon discovery by the Permittee or notification by the MPCA that it has submitted an incomplete or incorrect report or DMR. The amended report or DMR shall contain the missing or corrected data along with a cover letter explaining the circumstances of the incomplete or incorrect report.

52. General Requirement

Required Signatures. All DMRs, forms, reports, and other documents submitted to the MPCA shall be signed by the Permittee or the duly authorized representative of the Permittee. Minn. R. 7001.0150, subp. 2(D). The person or persons that sign the DMRs, forms, reports or other documents must certify that he or she understands and complies with the certification requirements of Minn. R. 7001.0070, including the penalties for submitting false information.

53. General Requirement

Detection Level. The Permittee shall report monitoring results below the reporting limit (RL) of a particular instrument as "<" the value of the RL. For example, if an instrument has a RL of 0.1 mg/L and a parameter is not detected at a value of 0.1 mg/L or greater, the concentration shall be reported as "<0.1 mg/L." "Non-detected," "undetected," "below detection limit," and "zero" are unacceptable reporting results, and are permit reporting violations. (Minn. R. 7001.0150, subp. 2[B]) Where sample values are less than the level of detection and the permit requires reporting of an average, the Permittee shall calculate the average as follows:

- a. If one or more values are greater than the level of detection, substitute zero for all nondetectable values to use in the average calculation.
- b. If all values are below the level of detection, report the averages as "<" the corresponding level of detection.

c. Where one or more sample values are less than the level of detection, and the permit requires reporting of a mass, usually expressed as kg/day, the Permittee shall substitute zero for all nondetectable values.

54. General Requirement

The Permittee shall, when requested by the MPCA, submit within a reasonable time the information and reports that are relevant to the control of ballast water activities covered by the permit.

55. General Requirement

Confidential Information. Except for data determined to be confidential according to Minn. Stat. § 116.075, subd. 2, all reports required by this permit shall be available for public inspection. Effluent data shall not be considered confidential. To request the MPCA maintain data as confidential, the Permittee must follow Minn. R. 7000.1300.

56. General Requirement

Subject to Enforcement Action and Penalties. Noncompliance with a term or condition of this permit subjects the Permittee to penalties provided by state law set forth in Minn. Stat. § 115.071 and 116.072, including monetary penalties, imprisonment, or both.

57. General Requirement

Criminal Activity. The Permittee may not knowingly make a false statement, representation, or certification in a record or other document submitted to the MPCA. A person who falsifies a report or document submitted to the MPCA, or tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this permit is subject to criminal and civil penalties provided by state law.

58. General Requirement

Effluent Violations. If sampling by the Permittee indicates a violation of any discharge limitation specified in this permit, the Permittee shall immediately make every effort to verify the violation by collecting additional samples, if appropriate, investigate the cause of the violation, and take action to prevent future violations. Violations that are determined to pose a threat to human health or a drinking water supply, or represent a significant risk to the environment shall be immediately reported to the Minnesota Department of Public Safety Duty Officer at 1-800-422-0798 (toll free). In addition, you may also contact the MPCA during business hours. Otherwise the violations and the results of any additional sampling shall be recorded on the next appropriate DMR or report.

59. General Requirement

Upset Defense. In the event of temporary noncompliance by the Permittee with an applicable effluent limitation resulting from an upset at the Permittee's ballast water treatment system due to factors beyond the control of the Permittee, the Permittee has an affirmative defense to an enforcement action brought by the MPCA as a result of the noncompliance if the Permittee demonstrates by a preponderance of competent evidence:

- a. The specific cause of the upset;
- b. That the upset was unintentional;
- c. That the upset resulted from factors beyond the reasonable control of the Permittee and did not result from operational error, improperly designed treatment systems, inadequate treatment systems, or lack of preventative maintenance;

- d. That at the time of the upset the treatment system was being properly operated; and
- e. That the Permittee implemented the remedial measures required by Minn. R. 7001.0150, subp. 3(J).

60. General Requirement

The Permittee shall at all times properly operate and maintain the ballast water systems of treatment and control, and the appurtenances related to them which are installed or used by the Permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

61. General Requirement

Application for revised NOC. Permittees that propose to make a change to the method of ballast water treatment must follow Minn. R.7001.0190 and submit an application for a revised NOC. If the Permittee cannot determine whether a revised NOC is needed, the Permittee must contact the MPCA prior to any action. It is recommended that the application for a revised NOC be submitted to the MPCA at least 180 days prior to the planned change.

62. General Requirement

Report Changes. The Permittee shall give advance notice as soon as possible to the MPCA of any substantial changes in operational procedures, activities that may alter the nature or frequency of the discharge, and/or material factors that may affect compliance with the conditions of this permit.

63. General Requirement

The Permittee shall receive prior written approval from the MPCA before increasing the use of a chemical additive authorized by this permit, or using a chemical additive not authorized by this permit, in quantities or concentrations that have the potential to change the characteristics, nature and/or quality of the discharge.

The Permittee shall request approval for an increased or new use of a chemical additive at least 60 days, or as soon as possible, before the proposed increased or new use. This written request shall include at least the following information for the proposed additive:

- a. The process for which the additive will be used;
- b. Material Safety Data Sheet (MSDS) which shall include aquatic toxicity, human health, and environmental fate information for the proposed additive;
- c. A complete product use and instruction label;
- d. The commercial and chemical names and Chemical Abstract Survey (CAS) number for all ingredients in the additive (If the MSDS does not include information on chemical composition, including percentages for each ingredient totaling to 100%, the Permittee shall contact the supplier to have this information provided); and
- e. The proposed method of application, application frequency, concentration, and daily average and maximum rates of use. Upon review of the information submitted regarding the proposed chemical additive, the MPCA may require additional information be submitted for consideration. This permit may be modified to restrict the use or discharge of a chemical additive and include additional influent and effluent monitoring requirements.

Approval for the use of an additive shall not justify the exceedance of any effluent limitation nor shall it be used as a defense against pollutant levels in the discharge causing or contributing to the violation of a water quality standard.

64. General Requirement

MPCA Initiated Permit Modification, Suspension, or Revocation. The MPCA may modify or revoke and reissue this permit pursuant to Minn. R. 7001.0170. The MPCA may revoke this permit without reissuance pursuant to Minn. R. 7001.0180.

65. General Requirement

Permit Transfer. The permit is not transferable to any person without the express written approval of the MPCA after compliance with the requirements of Minn. R. 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.

66. General Requirement

Permit Reissuance. If the Permittee desires to continue permit coverage beyond the date of permit expiration, the Permittee shall submit an application for reissuance at least 180 days before permit expiration. If the Permittee does not intend to continue the activities authorized by this permit after the expiration date of this permit, the Permittee shall notify the MPCA in writing at least 180 days before permit expiration. If the Permittee has submitted a timely application for permit reissuance, the Permittee may continue to conduct the activities authorized by this permit, in compliance with the requirements of this permit, until the MPCA takes final action on the application, unless the MPCA determines any of the following (Minn. R. 7001.0040 and 7001.0160):

- a. The Permittee is not in substantial compliance with the requirements of this permit, or with a stipulation agreement or compliance schedule designed to bring the Permittee into compliance with this permit;
- b. The MPCA, as a result of an action or failure to act by the Permittee, has been unable to take final action on the application on or before the expiration date of the permit;
- c. The Permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.

PART 8. DEFINITIONS

67. Definitions

“Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

68. Definitions

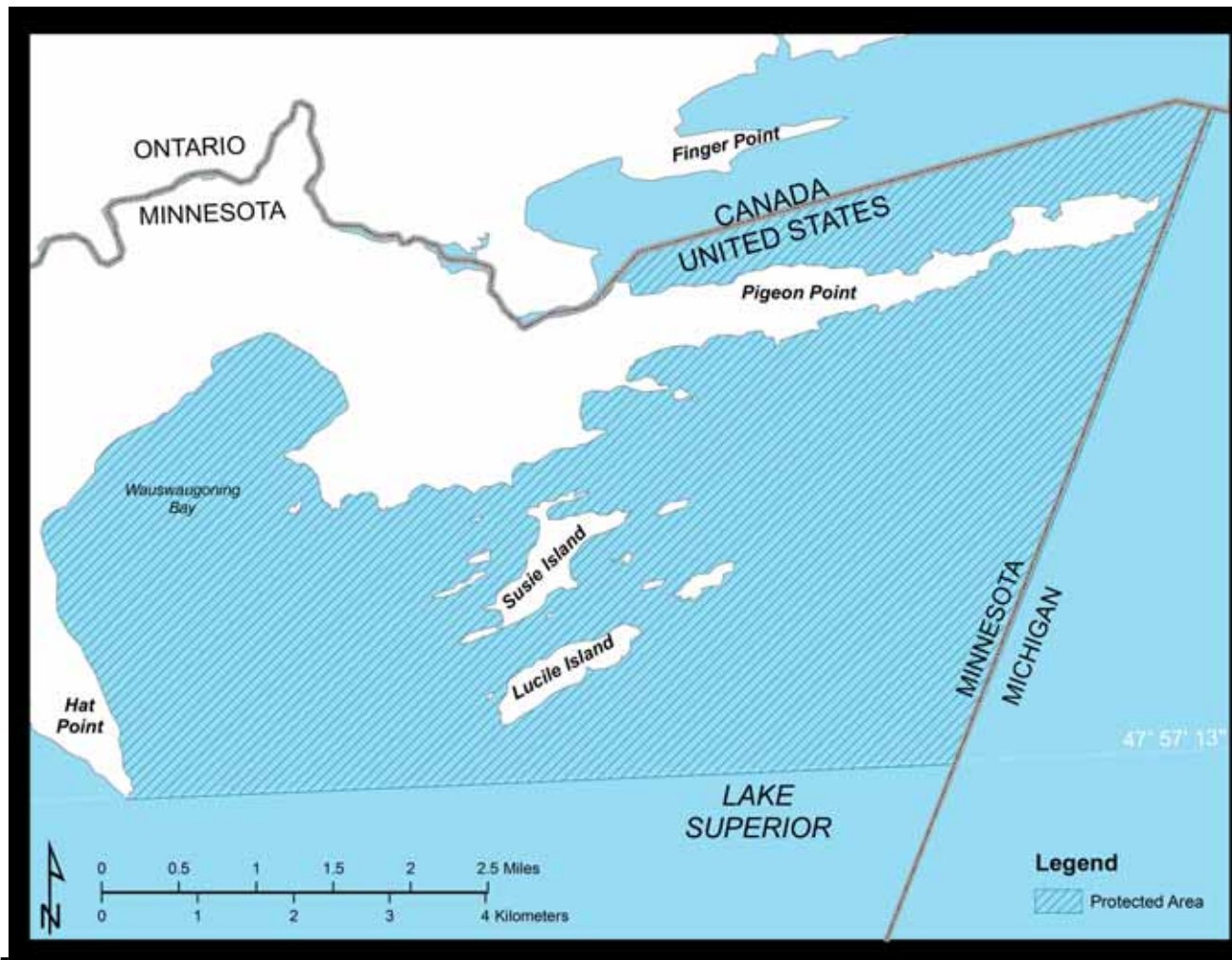
“Ballast water” means water taken on board a vessel to control trim, list, draft, stability, or stresses of the vessel, including matter suspended in the water, or any water placed into a ballast tank during cleaning, maintenance, or other operations.

- 69. Definitions** “Ballast water treatment” means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to comply with the performance standards identified in Table A.
- 70. Definitions** “Captain of the Port (COTP)” means the Coast Guard officer designated as the COTP, or a person designated by that officer, for the COTP zone covering the U.S. port of destination. These COTP zones are listed in 33 CFR pt. 3.
- 71. Definitions** “Composite” sample type is a combination of individual grab samples taken at periodic intervals over the specified time period. Either samples taken at equal time intervals shall be combined using a volume of each sample that is proportional to the flow that sample represents, or equal volume samples shall be combined that are taken at intervals of equal flow volumes.
- 72. Definitions** “Constructed” means a state of construction of a vessel in which the keel is laid, construction identifiable with the specific vessel begins, assembly of the vessel has begun comprising at least 50 tons or one percent of the estimated mass of all structural material of the vessel, whichever is less, or the vessel undergoes a major conversion.
- 73. Definitions** “Daily average” for biological parameters is calculated by adding all sample values measured during the monitoring period and dividing by the number of samples measured during that monitoring period.
- 74. Definitions** “Discharge” means the addition of any pollutant to the waters of the state or to any disposal system.
- 75. Definitions** “Flow-through or flush ballast water management techniques” means vessels which continually exchange the water in the ballast tanks, either by pumping or by differential pressure, during transit with ambient water in the vicinity of the vessel.
- 76. Definitions** “Foreign vessel” means a vessel of foreign registry or operated under the authority of a foreign country.
- 77. Definitions** "General permit" means a permit issued under Minn. R. 7001.0210 to a category of permittees whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.
- 78. Definition** “Grab” sample type is an individual sample collected from one location at one point in time.

- 79. Definitions** “MPCA” means the Minnesota Pollution Control Agency.
- 80. Definitions** “Minnesota State waters of Lake Superior” means the surface waters of Lake Superior and waters that discharge, flow, or otherwise are transferred into Lake Superior that are under the jurisdiction of the state.
- 81. Definitions** “Non-suspended sediment” means those solids that remain in the ballast tank after normal vessel operations. Sediment that is re-suspended during ballast tank cleaning operations is considered “non-suspended sediment.”
- 82. Definitions** “Owner/operator” or “Permittee” means the entity identified as the Permittee on the Notice of Coverage authorizing coverage under this permit.
- 83. Definitions** “Quarterly maximum” sample type means the greatest sample value recorded during the designated monitoring period.
- 84. Definitions** “Quarterly minimum” sample type means the lowest sample value recorded during the designated monitoring period.
- 85. Definitions** “Vessel” means a watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the state.
- 86. Definitions** “Viable organism” means organisms that are living and able to reproduce.
- 87. Definitions** Any other term not defined in this permit has the definition provided in Minn. Stat. chs. 115 and 116.

APPENDIX – PROHIBITED DISCHARGE AREAS

Map 1 – Portions of Lake Superior north of latitude 47 degrees, 57 minutes, 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and West of the Minnesota-Michigan boundary



Map 2 – Minnesota Department of Natural Resources Designated Scientific and Natural Areas

