

April 10, 2008

RE: Minnesota Vessel Discharge General Permit - Current Working Draft Language

To Interested Parties:

Attached please find the Minnesota Pollution Control Agency's (MPCA) current working draft permit language for vessels discharging ballast water into the Minnesota waters of Lake Superior and associated harbors. Our goal is to issue a water quality permit that makes substantial progress toward preventing ship-mediated introduction and spread of aquatic invasive species while supporting a viable shipping industry in Minnesota and throughout the Great Lakes.

The working draft permit language is presented in two parts. Part 1 is the permit language specifically addressing ballast water discharges. In this section a brief explanation is provided next to the draft permit language. Part 2 is the permit language common to most water quality permits issued by the MPCA. We have not evaluated the applicability of all Part 2 language but wanted to share the language currently under consideration. A one-page summary of the draft permit language is also attached for quick reference.

As this is working draft language, we expect to consider substantial changes, additions and/or deletions as a result of the input we receive and additional research by our staff. This is a new regulatory area for the MPCA and information that you can provide to improve our understanding is welcome.

Your comments on the attached draft language would be most helpful if they are received by April 30, 2008 during this informal phase of permit development. Written comments, questions, requests to receive future drafts of the permit, and requests for more information on the general permit should be directed to: Mary Jean Fenske, MPCA, Industrial Division, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone number: (651) 297-5472; and e-mail: [maryjean.fenske@pca.state.mn.us](mailto:maryjean.fenske@pca.state.mn.us).

Written comments received will be posted on the MPCA's vessel permit program web page: <http://www.pca.state.mn.us/programs/ballastwater.html>

The MPCA expects to publish the final draft permit in the State Register for a formal 30 day public comment period in June. The MPCA's goal is to issue permits to vessels by September 30, 2008.

Informational meetings are scheduled for the following dates for you to learn more about the draft permit and provide your input. The agenda will be identical for both meetings and will focus on discussion of the working draft ballast water language in Part 1.

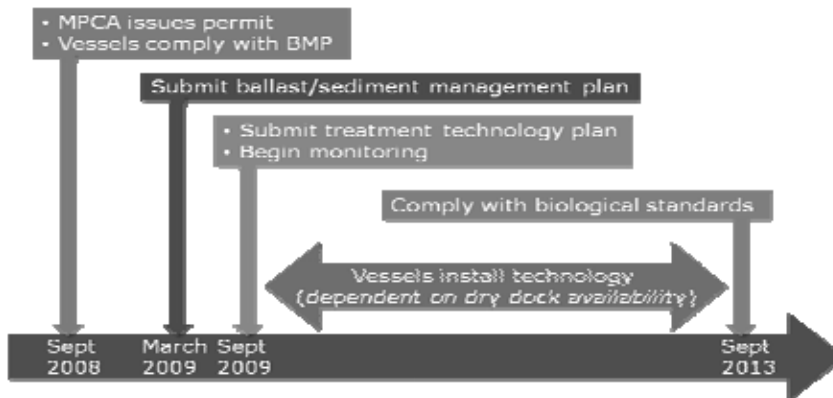
- Tuesday, April 15<sup>th</sup> from 2 – 4 pm in the Boardroom (St. Paul) OR
- Wednesday, April 16<sup>th</sup> from 10 am- noon in the large conference room (Duluth)

Please contact Mary Jean Fenske if you have questions about the stakeholder meeting. Directions to the St. Paul and Duluth offices can be found at:

<http://www.pca.state.mn.us/about/regions/index.html>

## MPCA Ballast Water NPDES/SDS General Permit Development

### Summary of 4-10-08 WORKING DRAFT Language



**Overview:** A permit would be required for discharge of ballast water into Minnesota waters of Lake Superior and associated harbors from vessels meeting the applicability criteria. The permit would allow discharge if the vessel meets the terms and conditions of the permit. The term of the permit would be 5 years.

**Application and Issuance Process:** The vessel owner or operator would submit an application to the MPCA. (The MPCA plans to have applications available by August 31, 2008.) Following review, the MPCA would issue a Notice of Coverage for each vessel. (The MPCA intends to issue the permit and Notices of Coverage by Sept. 30, 2008.)

**Applicability:** The permit would apply to all ocean-going and lake-only vessels transiting the Minnesota waters of Lake Superior and associated harbors at least 50 meters in length and with a ballast water capacity of at least 8 cubic meters. Some exclusions are suggested, such as for U.S. armed forces vessels and to ensure safety in emergency situations.

<b>Discharge Standards</b>	<ul style="list-style-type: none"> <li>• Best Management Practices (BMP) (such as discharging only the minimal amount needed and no discharge of sediments from ballast water tanks to MN waters)</li> <li>• IMO Regulation D-2 Performance Standards (Technology-based biota standards such as less than 10 viable organisms that are greater than 50 micrometers in dimension per cubic meter)</li> <li>• Water Quality-Based Performance Standards (Environment-based standards such as those of California)</li> </ul>	<p>Compliance would be required immediately</p> <p>Compliance would be achieved within 5-year term of the permit, dependent on dry dock availability</p> <p>Have not been developed but still under consideration</p>
<b>Monitoring and Submittals</b>	<ul style="list-style-type: none"> <li>• Submit Ballast Water Treatment Technology Plans &amp; Specifications including Installation Schedule</li> <li>• Initiate discharge monitoring for organisms</li> <li>• Submit a ballast water and sediment management practice plan</li> <li>• Submit Discharge Monitoring Report</li> </ul>	<p>Within 1 year of permit issuance</p> <p>Within 1 year of permit issuance</p> <p>Within 180 days of permit issuance</p> <p>Frequency of submittal under consideration</p>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

NATIONAL POLLUTANT DISCHARGE ELIMINATION  
SYSTEM (NPDES)/STATE DISPOSAL SYSTEM PERMIT PROGRAM (SDS)  
PERMIT MNG \_\_\_\_\_  
BALLAST WATER DISCHARGE GENERAL PERMIT

ISSUANCE DATE:

EXPIRATION DATE:

Working Draft Permit Language	Notes								
<p>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 and its associated harbors 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.</p> <p>The goal of this permit is to protect water quality in accordance with Minnesota and U.S. statutes and rules, including Minn. Stat. chs. 115 and 116, Minn. R. chs 7001, 7050, 7052 and the U.S. Clean Water Act.</p> <p>This permit is effective on the issuance date identified above and expires at midnight on the expiration date identified above.</p> <p>Signature _____</p>	<p>This permit is focused on preventing ship-mediated introduction and/or spread of non-indigenous aquatic species in Minnesota waters. The permit addresses state and federal water quality permit requirements.</p>								
<p>Permit required submittals:</p> <table border="1" data-bbox="180 1149 1717 1396"> <thead> <tr> <th data-bbox="180 1149 1260 1190">Submittal</th><th data-bbox="1260 1149 1717 1190">Receipt deadline</th></tr> </thead> <tbody> <tr> <td data-bbox="180 1190 1260 1255">Ballast Water &amp; Sediment Management Plan . . . . .</td><td data-bbox="1260 1190 1717 1255">within 180 days of permit issuance</td></tr> <tr> <td data-bbox="180 1255 1260 1320">Ballast Water Treatment Technology Plans and Specifications and installation schedule . . . . .</td><td data-bbox="1260 1255 1717 1320">within 1 year of permit issuance</td></tr> <tr> <td data-bbox="180 1320 1260 1396">Discharge Monitoring Report . . . . .</td><td data-bbox="1260 1320 1717 1396">Once every &lt;quarter, year?&gt;</td></tr> </tbody> </table>	Submittal	Receipt deadline	Ballast Water & Sediment Management Plan . . . . .	within 180 days of permit issuance	Ballast Water Treatment Technology Plans and Specifications and installation schedule . . . . .	within 1 year of permit issuance	Discharge Monitoring Report . . . . .	Once every <quarter, year?>	
Submittal	Receipt deadline								
Ballast Water & Sediment Management Plan . . . . .	within 180 days of permit issuance								
Ballast Water Treatment Technology Plans and Specifications and installation schedule . . . . .	within 1 year of permit issuance								
Discharge Monitoring Report . . . . .	Once every <quarter, year?>								

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

PART I. PERMIT COVERAGE

Type of Requirement	Working Draft Permit Language	Notes
<b>1. Permit Coverage Applicability Criteria (a)</b>	<p>This permit applies to all vessels transiting the Minnesota state waters of Lake Superior and its associated harbors that meet all of the following criteria:</p> <ul style="list-style-type: none"> <li>a. Vessels designed, constructed, or adapted to carry a minimum ballast water capacity of 8 cubic meters; and</li> <li>b. Vessels at least 50 meters in length.</li> </ul>	<p>The size criteria are consistent with IMO treaty criteria, proposed federal legislation and USCG and Canadian ballast water regulations. Vessels of this size are typically classified as ships and used for commercial purposes.</p> <p>This permit is intended to cover both ocean-going and lake only vessels.</p>
<b>2. Permit Coverage Applicability Criteria (b)</b>	<p>Persons wishing to discharge ballast water from any vessel into Minnesota waters of Lake Superior and its associated harbors under this General Permit shall meet all applicability criteria listed below:</p> <ul style="list-style-type: none"> <li>a. The discharge meets the limits and monitoring requirements in this permit; and</li> <li>b. The discharge of ballast water will not violate surface water quality standards (Minn. R. 7050.0150, 7052.0100).</li> </ul> <p>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.</p>	<p>Minn. R. 7001.0030</p> <p>Limits and monitoring requirements are effective according to the schedule in this permit.</p>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

Type of Requirement	Working Draft Permit Language	Notes
<b>3. Permit Coverage Exclusions (a)</b>	<p>The following vessels are not covered by this permit and do not need to meet the requirements of this permit:</p> <ul style="list-style-type: none"> <li>a. Vessels that carry ballast water in permanently sealed ballast water tanks that are not subject to discharge</li> <li>b. Vessels of the Armed Forces as defined in CWA § 312(a)(14)</li> </ul>	<p>This language is consistent with proposed federal legislation and USCG and Canadian ballast water regulations.</p>
<b>4. Permit Coverage Exclusions (b)</b>	<p>Ballast wastewaters discharged to or from an on-shore ballast water treatment system are not regulated by this permit and the monitoring and effluent limits stated in this permit do not apply to the ballast water discharged to or from the on-shore treatment system.</p>	<p>On-shore ballast water treatment systems would be required to apply for an individual NPDES/SDS permit.</p>
<b>5. Permit Coverage Exclusions (c)</b>	<p>Persons wishing to discharge ballast water from vessels shall comply with all Limits and Monitoring and other requirements included in this permit except as provided below:</p> <ul style="list-style-type: none"> <li>a. Ballast discharge is necessary to ensure the safety of the vessel in an emergency situation or saving a life;</li> <li>b. The discharge is solely for the purpose of avoiding or minimizing the discharge of pollution from the vessel that would otherwise violate applicable State and Federal law;</li> <li>c. The discharge of ballast water occurs at the same location where the whole of that ballast water and sediments originated, such as within the confines of the Duluth-Superior Harbor and there is not mixing with ballast water and sediments from another area.</li> </ul>	<p>This language is, in part, consistent with proposed federal legislation and USCG and Canadian ballast water regulations.</p>
<b>6. Prohibited Discharges (a)</b>	<p>No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to 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.</p>	<p>From Minn. R. 7050.0180</p>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

Type of Requirement	Working Draft Permit Language	Notes
<b>7. Prohibited Discharges (b)</b>	This permit does not authorize a discharge of non-suspended sediment from ballast water tanks to Minnesota surface waters.	This language is consistent with the intent of 33 CFR 151.2035

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

PART II. SURFACE DISCHARGE STATIONS LIMITATIONS AND MONITORING REQUIREMENTS

The following table includes biological monitoring requirements and effluent limitations. Monitoring requirements will be effective one year after permit issuance. Effluent limitations will be effective upon the installation and operation date of ballast water treatment technology no later than 5 years after permit issuance.

TABLE A

Parameter	Limit	Limit Type	Effective Period	Sample Type	Frequency	Notes
Organisms > 50 $\mu$ m in minimum dimension	< 10 viable organisms per cubic meter	Daily Avg	Jan – Dec	Composite	2/yr during discharge	These requirements are consistent with IMO D-2 standards and reflect a level of treatment that is achievable within the term of the permit. These standards may be modified to be consistent with future federal standards, statutes, or regulations.  Water quality / environment-based standards and implementation schedule remain under consideration.
Organisms 10 – 50 $\mu$ m in minimum dimension	< 10 viable organisms per ml	Daily Avg	Jan – Dec	Composite	2/yr during discharge	
Escherichia coli	< 250 cfu/100 ml	Daily Avg	Jan – Dec	Composite	2/yr during discharge	
Intestinal enterococci	< 100 cfu/100 ml	Daily Avg	Jan – Dec	Composite	2/yr during discharge	

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>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

The following table will include effluent limitations that 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

TABLE B

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
Total Chlorine Residual		mg/l	Daily maximum	Jan – Dec	Grab	2/yr during discharge	Monitoring for total chlorine residual required only for vessels with ballast water treatment systems that include the use of oxidants.  Monitoring for Total Residual Oxidants (TRO) is being considered since biocides other than chlorine may be used in potential treatment technologies.
Dissolved Oxygen		mg/L	Daily minimum	Jan – Dec	Grab	2/yr during discharge	Monitoring for DO required only for vessels with treatment systems that include the use of deoxygenation.
Temperature		Temp deg F	Daily max	Jan – Dec	Continuous	Once during every discharge	Monitoring for temperature required only for vessels with treatment systems that include the use of heat.



PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

PART III. GENERAL BALLAST PERMIT AUTHORIZATION

Type of Requirement	Working Draft Permit Language	Notes
<b>8. Permit Authorization (a)</b>	This permit authorizes, subject to the terms and conditions of this permit, the discharge of ballast water to Lake Superior and associated harbors after receiving a written Notice of Coverage (NOC) from the MPCA.	Minn. R. 7001.0030
<b>9. Permit Authorization (b))</b>	A vessel is authorized to discharge under this NPDES/SDS 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 to the MPCA; and  b. the owner/operator has received a written Notice of Coverage (NOC) from the MPCA indicating that coverage has been granted.	Minn. R. 7001.0030
<b>10. Permit Authorization (c)</b>	The written NOC from the MPCA will include:  a. Vessel name and IMO number if applicable;  b. A description of the vessel including the vessel dimensions and maximum ballast water capacity; and  c. Name of vessel contact who is master of the vessel or a duly authorized representative of this person.	

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

PART IV. BALLAST WATER MANAGEMENT PRACTICES, BALLAST WATER & SEDIMENT MANAGEMENT PLAN

Type of Requirement	Permit Language	Notes
<b>11. Ballast Water Management Practices (a)</b>	<p>Persons in charge of vessels subject to this permit must operate in such a way to: minimize or avoid uptake of ballast water in the following areas and situations:</p> <ul style="list-style-type: none"> <li>a. Areas known to have infestations or populations of harmful organisms and pathogens (e.g., toxic algal blooms);</li> <li>b. Areas near sewage outfalls;</li> <li>c. Areas near dredging operations;</li> <li>d. Areas where a freshwater stream or river is known to be more turbid;</li> <li>e. In darkness when bottom-dwelling organisms may rise up in the water column; and</li> <li>f. Where propellers may stir up the sediment.</li> </ul>	Consistent with 33 CFR 151.2035
<b>12. Ballast Water Management Practices (b)</b>	<p>The following best management practices shall be implemented by all vessels subject to this permit:</p> <ul style="list-style-type: none"> <li>a. Clean the ballast tanks regularly to remove sediments under controlled arrangements in port, or at dry dock;</li> <li>b. Discharge only the minimal amount of ballast water essential for vessel operations while in the Minnesota waters;</li> <li>c. Maintain a ballast water management plan that has been developed consistent with this permit specifically for the vessel that will allow those responsible for the plan's implementation to understand and follow the vessel's ballast water management strategy; and</li> </ul>	Consistent with 33 CFR 151.2035

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

Type of Requirement	Permit Language	Notes
	d. Train the operator, person-in-charge, and crew on the application of ballast water and sediment management and treatment procedures.	
<b>13. Ballast Water Management Practices</b> <b>(c)</b>	<p>Vessels Originating from Outside the Great Lakes System [needs to be defined] - If the vessel has the occasion to carry ballast water taken on in areas less than 200 nautical miles from any shore into the waters of the U.S. the vessel must maintain a log book documenting compliance with the U.S. Coast Guard Regulations 33 CFR 151.2036 including the following requirements:</p> <p>a) Perform a complete ballast water exchange in an area no less than 200 nautical miles from any shore and in waters more than 2000 meters deep such that at the conclusion of the exchange any tank from which ballast water will be discharged contains water with a minimum of salinity of 30 parts per thousand prior to discharging ballast water in the U.S. waters;</p> <p>b) Retain ballast water onboard the vessel; or</p> <p>c) Prior to the vessel entering U.S. waters, use an alternative method of ballast water treatment that has been approved by the U.S. Coast Guard.</p> <p>The log book must be made available to MPCA staff for review, upon request.</p> <p>Any vessel that has taken on ballast at a point more than 200 nautical miles from any shore of the United States must do one of the following before that vessel can discharge any ballast in Minnesota waters:</p> <p>a) Perform saltwater exchange in accordance with Coast Guard regulations at 33 C.F.R. 151.1510. If this option is selected, documentation required by the Coast Guard must be maintained on the vessel and made available to MPCA upon request; or</p> <p>b) Use an alternative method of treating the vessel's ballast tanks that the MPCA has approved in writing prior to discharge. The MPCA shall not approve an alternative treatment method unless the alternative treatment method is at least as effective at eliminating living organisms from ballast water as saltwater exchange. The burden shall be on the permittee to demonstrate to the</p>	<p>Consistent with 33 CFR 151.1510, 33 CFR 151.2036 &amp; proposed federal legislation.</p> <p>The intention is to require ballast water exchange consistent with existing federal regulations for oceangoing ships as an interim measure until ballast water treatment technologies are installed.</p>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

Type of Requirement	Permit Language	Notes
	MPCA that a proposed alternative method of ballast treatment is at least as effective at eliminating living organisms from ballast as saltwater exchange	
<b>14. Ballast Water and Sediment Management Plan</b>	<p>To assure compliance with this permit the Permittee shall develop a Ballast Water and Sediment Management Plan designed to minimize the discharge of aquatic species. The Permittee shall submit the plan to the agency for review within 180 days of permit issuance. The plan shall include the at a minimum the following:</p> <ul style="list-style-type: none"> <li>a. Safety procedures for the vessel and crew associated with ballast water management;</li> <li>b. A designated person on board the vessel in charge of ensuring the plan is properly implemented;</li> <li>c. Discharge equipment maintenance and calibration schedule;</li> <li>d. Ballast water discharge protocol;</li> <li>e. A description of effective ballast water management practices consistent with the "Ballast Water Management Practices" sections of this permit;</li> <li>f. Disposal method for non-suspended sediment and other residual solids associated with ballast tank operation and/or ballast water treatment; and</li> <li>g. Analytical methodologies, laboratory controls, and reporting schedule consistent with the limits and monitoring requirements and other requirements included in this permit.</li> </ul> <p>The vessel shall maintain an up-to-date copy of the management plan on board and shall make the plan available to the MPCA upon request.</p>	Consistent with 33 CFR 151.2035(a) and proposed federal legislation.

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

PART V. COMPLIANCE SCHEDULE

Type of Requirement	Permit Language	Notes
<b>15. Effluent Limits Compliance (a)</b>	Within one year of permit issuance the Permittee shall submit to the MPCA in writing the ballast water treatment technology (or technologies) and/or operating procedures they plan to implement and adopt to meet the effluent limits for organisms and the anticipated schedule for implementation.	
<b>16. Effluent Limits Compliance (b)</b>	The Permittee shall meet the effluent limits for organisms included in the Limits and Monitoring Section of this Permit upon installation of ballast water treatment technology which shall occur no later than five years after permit issuance.	Actual installation date may be dependent on dry dock schedule.
<b>17. Effluent Limits Compliance (c)</b>	The Permittee shall submit to the MPCA written notification of compliance with the final effluent limits for organisms upon installation of ballast water treatment technology which shall occur no later than five years after permit issuance.	

PART VI. GENERAL PERMIT LANGUAGE

Type of Requirement	Permit Language	Notes
<b>18. Surface Discharges (a)</b>	Samples for surface discharge stations shall be taken at a point(s) representative of the discharge to surface waters.	

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

<b>19. Surface Discharges (b)</b>	Floating solids or visible foam shall not be discharged in other than trace amounts.	Minn. R. 7050.0210
<b>20. Surface Discharges (c)</b>	Oil or other substances shall not be discharged in amounts that create a visible color film or in quantities that may be harmful.	Minn. R. 7050.0210
<b>21. Discharge Monitoring Reports</b>	The Permittee shall submit monitoring results for discharges in accordance with the limits and monitoring requirements for this station. If no discharge occurred during the reporting period, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR).	Minn. R. 7001.1090 Subpart 1 (D)
<b>22. Residual Solids Management (a)</b>	This permit does not authorize a discharge of non-suspended sediment from ballast water tanks to Minnesota surface waters.	
<b>23. Residual Solids Management (b)</b>	The Permittee shall dispose of residual solids in such a manner and at such locations that disposal practices shall not result in unlawful pollution of the air, surface water or ground water, or create nuisance conditions.	Minn. R. 7050.0210
<b>24. Chemical Treatment of Ballast Water</b>	The Permittee may discharge chemically treated ballast water consistent with this permit chapter and the limits and monitoring section of this permit.	
<b>25. Total Residual Chlorine (a)</b>	<p>"Daily Maximum" for Total Residual Chlorine (TRC) concentration limits means:</p> <p>a. For continuously chlorinated discharges the TRC value of a single sample in a 24-hour period shall be equal to or less than 0.04 mg/L.</p> <p>b. For discharges that are chlorinated no more than 2 hours every 24 hours the TRC value of a single sample in a 24-hour period shall be equal to or less than 0.2 mg/L.</p> <p>c. For discharges that are chlorinated no more than 6 hours every 24 hours the TRC value of a single sample in a 24-hour period shall be equal to or less than 0.1 mg/L.</p>	<p>Total residual chlorine requirements would apply only to ships using chlorine for its treatment technology</p> <p>Minn. R.</p>

PART 1

MPCA's April 10, 2008 Working Draft General Permit Language

	<p>d. If the concentration of TRC in the first sample is greater than the applicable limit in part a, b, or c 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 Reportable Limit for TRC are assumed to be zero for averaging purposes only.</p> <p>e. The average value of multiple daily TRC effluent sample analyses must meet the applicable limit described in part a, b, or c in this permit condition.</p>	<p>7050.0211</p> <p>Toxicity Studies done as part of Federal Effluent Limit Guidelines</p>
<b>26. Total Residual Chlorine (b)</b>	Total Residual Chlorine must be analyzed immediately. This means within 15 minutes or less of sample collection.	
<b>27. Total Residual Chlorine (c)</b>	A Method Detection Limit (MDL) must be established for this parameter.	
<b>28. Total Residual Chlorine (d)</b>	The Reportable Limit must be established for this parameter. This should be based on the Method Detection Limit and laboratory, analyst, and equipment used in the analysis. The Reportable Limit cannot be greater than 0.38 mg/L.	
<b>29. Total Residual Chlorine (e)</b>	The Method Detection Limit and Reportable Limit should be reassessed when the method, equipment, laboratory, or analyst changes.	
<b>30. Total Residual Chlorine (f)</b>	Monitoring results below the Reportable Limit should be reported as "<" the Reportable Limit. For example, if the Reportable Limit 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."	
<b>31. Total Residual Chlorine (g)</b>	The equipment should be checked against a known standard at least quarterly	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

**The following requirements are standard conditions that are included in every NPDES/SDS permit issued in the State of Minnesota.**

**These conditions are sometimes referred to as "boilerplate" conditions and ensure uniformity and consistency for all permits.**

**Requirements found in this section include legal, administrative, and procedural requirements.**

**NOTE: These conditions are not specific to vessels or ballast water discharges. MPCA staff will be reviewing these requirements to ensure appropriate applicability prior to proceeding with a final draft permit.**

<b>Total Facility Requirements</b>		
<b>32. Total Facility Requirement</b>	Incorporation by Reference. The following applicable federal and state laws are incorporated by reference in this permit, are applicable to the Permittee, and are enforceable parts of this permit: 40 CFR pts. 122.41, 122.42, 136, 403 and 503; Minn. R. pts. 7001, 7041, 7045, 7050, 7060, and 7080; and Minn. Stat. Sec. 115 and 116.	
<b>33. Total Facility Requirement</b>	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 Agency.	Minn. R. 7001.0150, subp. 3, item E
<b>34. Total Facility Requirement</b>	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 Code of Federal Regulations, Title 40, sections 400 to 460 and Minnesota Rules, parts 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.	Minn. R. 7001.1090, subp.1, item A
<b>35. Total Facility Requirement</b>	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.	Minn. R. 7050.0210 subp. 2
<b>36. Total Facility Requirement</b>	Property Rights. This permit does not convey a property right or an exclusive privilege.	Minn. R. 7001.0150, subp. 3, item C
<b>37. Total Facility Requirement</b>	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.	Minn. R. 7001.0150, subp. 3, item O



PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

<b>38. Total Facility Requirement</b>	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.	Minn. R. 7001.0150, subp.3, item D
<b>39. Total Facility Requirement</b>	Liabilities. The MPCA's issuance of 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.	Minn. R. 7001.0150, subp.3, item A
<b>40. Total Facility Requirement</b>	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.	Minn. R. 7001.0150, subp.3, item B
<b>41. Total Facility Requirement</b>	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.	
<b>42. Total Facility Requirement</b>	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 facility.	
<b>43. Total Facility Requirement</b>	Inspection and Entry. When authorized by Minn. Stat. Sec. 115.04; 115B.17, subd. 4; and 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 facility 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 facility covered by the permit or pertaining to the activity covered by the permit.	Minn. R. 7001.0150, subp.3, item I
<b>44. Total Facility Requirement</b>	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.	40 CFR 122.41 (j)(1)
<b>45. Total Facility Requirement</b>	Additional Sampling. If the Permittee monitors more frequently than required, the results and the frequency of monitoring shall be reported on the Discharge Monitoring Report (DMR) or another MPCA-approved form for that reporting period.	Minn. R. 7001.1090, subp. 1, item E

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

<b>46. Total Facility Requirement</b>	Certified Laboratory. A laboratory certified by the Minnesota Department of Health shall conduct analyses required by this permit. 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. Sec. 144.97 through 144.98 and Minn. R. 4740.2010 and 4740.2050 through 4740.2120)	Minn. R. 4740.2010 and 4740.2050 through 2120
<b>47. Total Facility Requirement</b>	Sample Preservation and Procedure. Sample preservation and test procedures for the analysis of pollutants shall conform to 40 CFR Part 136 and Minn. R. 7041.3200.	
<b>48. Total Facility Requirement</b>	Equipment Calibration: Flow meters, pumps, flumes, lift stations or other flow monitoring equipment used for purposes of determining compliance with permit shall be checked and/or calibrated for accuracy at least twice annually.	Minn. R. 7001.0150, subp. 2, items B and C
<b>49. Total Facility Requirement</b>	<p>Maintain Records. The Permittee shall keep the records required by this permit for at least ten 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, item C):</p> <ul style="list-style-type: none"> <li>a. The exact place, date, and time of the sample or measurement;</li> <li>b. The date of analysis;</li> <li>c. The name of the person who performed the sample collection, measurement, analysis, or calculation; and</li> <li>d. The analytical techniques, procedures and methods used; and</li> <li>e. The results of the analysis.</li> </ul>	
<b>50. Total Facility Requirement</b>	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, item D; Minn. R. 7001.0150, subp. 2, item 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	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	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.	
<b>51. Total Facility Requirement</b>	<p>DMRs and Supplementals shall be submitted to:</p> <p>MPCA</p> <p>Attn: Discharge Monitoring Reports</p> <p>520 Lafayette Road North</p> <p>St. Paul, Minnesota 55155-4194.</p> <p>DMRs and Supplementals shall be postmarked by the 21st day of the month following the sampling period or as otherwise specified in this permit. 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)</p> <p>Other reports required by this permit shall be postmarked by the date specified in the permit to:</p> <p>MPCA</p> <p>Attn: WQ Submittals Center</p> <p>520 Lafayette Road North</p> <p>St. Paul, Minnesota 55155-4194</p>	
<b>52. Total Facility Requirement</b>	<del>Incomplete or Incorrect Reports.</del> 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.	Minn. R. 7001.0150 subp. 3, item G
<b>53. Total Facility Requirement</b>	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, item 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	Minn. R. 7001.0540

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	requirements of Minn. R. 7001.0070 and 7001.0540, including the penalties for submitting false information. Technical documents, such as design drawings and specifications and engineering studies required to be submitted as part of a permit application or by permit conditions, must be certified by a registered professional engineer.	
<b>54. Total Facility Requirement</b>	<p>Detection Level. The Permittee shall report monitoring results below the reporting limit (RL) of a particular instrument as "&lt;" 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 "&lt;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, item 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:</p> <ul style="list-style-type: none"> <li>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.</li> <li>b. If all values are below the level of detection, report the averages as "&lt;" the corresponding level of detection.</li> <li>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.</li> </ul>	Minn. R. 7001.0150, subp. 2, item B
<b>55. Total Facility Requirement</b>	The Permittee shall, when requested by the Agency, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.	Minn. R. 7001.0150, subp. 3, item H
<b>56. Total Facility Requirement</b>	Confidential Information. Except for data determined to be confidential according to Minn. Stat. Sec. 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 Agency maintain data as confidential, the Permittee must follow Minn. R. 7000.1300.	
<b>57. Total Facility Requirement</b>	Subject to Enforcement Action and Penalties. Noncompliance with a term or condition of this permit subjects the Permittee to penalties provided by federal and state law set forth in section 309 of the Clean Water Act; United States Code, title 33, section 1319, as amended; and in	Minn. R. 7001.1090, subp. 1, item B

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	Minn. Stat. Sec. 115.071 and 116.072, including monetary penalties, imprisonment, or both.	
<b>58. Total Facility Requirement</b>	Criminal Activity. The Permittee may not knowingly make a false statement, representation, or certification in a record or other document submitted to the Agency. A person who falsifies a report or document submitted to the Agency, 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 federal and state law.	Minn. R. 7001.0150, subp.3, item G., 7001.1090, subps. 1, items G and H and Minn. Stat. Sec. 609.671
<b>59. Total Facility Requirement</b>	Noncompliance Defense. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.	40 CFR 122.41(c)
<b>60. Total Facility Requirement</b>	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) or (651)649-5451 (metro area). 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.	
<b>61. Total Facility Requirement</b>	Unauthorized Releases of Wastewater Prohibited. Except for conditions specifically described in Minn. R. 7001.1090, subp. 1, items J and K, all unauthorized bypasses, overflows, discharges, spills, or other releases of wastewater or materials to the environment, whether intentional or not, are prohibited. However, the MPCA will consider the Permittee's compliance with permit requirements, frequency of release, quantity, type, location, and other relevant factors when determining appropriate action.	40 CFR 122.41 and Minn. Stat. Sec 115.061
<b>62. Total Facility Requirement</b>	Discovery of a release. Upon discovery of a release, the Permittee shall: a. Take all reasonable steps to immediately end the release. b. Notify the Minnesota Department of Public Safety Duty Officer at 1(800)422-0798 (toll free)	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	<p>or (651)649-5451 (metro area) immediately upon discovery of the release. In addition, you may also contact the MPCA during business hours at 1(800) 657-3864.</p> <p>c. Recover as rapidly and as thoroughly as possible all substances and materials released or immediately take other action as may be reasonably possible to minimize or abate pollution to waters of the state or potential impacts to human health caused thereby. If the released materials or substances cannot be immediately or completely recovered, the Permittee shall contact the MPCA. If directed by the MPCA, the Permittee shall consult with other local, state or federal agencies (such as the Minnesota Department of Natural Resources and/or the Wetland Conservation Act authority) for implementation of additional clean-up or remediation activities in wetland or other sensitive areas.</p> <p>d. Collect representative samples of the release. The Permittee shall sample the release for parameters of concern immediately following discovery of the release. The Permittee may contact the MPCA during business hours to discuss the sampling parameters and protocol. In addition, Fecal Coliform Bacteria samples shall be collected where it is determined by the Permittee that the release contains or may contain sewage. If the release cannot be immediately stopped, the Permittee shall consult with MPCA regarding additional sampling requirements. Samples shall be collected at least, but not limited to, two times per week for as long as the release continues.</p> <p>e. Submit the sampling results as directed by the MPCA. At a minimum, the results shall be submitted to the MPCA with the next DMR.</p>	
<b>63. Total Facility Requirement</b>	<p>Upset Defense. In the event of temporary noncompliance by the Permittee with an applicable effluent limitation resulting from an upset at the Permittee's facility due to factors beyond the control of the Permittee, the Permittee has an affirmative defense to an enforcement action brought by the Agency as a result of the noncompliance if the Permittee demonstrates by a preponderance of competent evidence:</p> <p>a. The specific cause of the upset;</p> <p>b. That the upset was unintentional;</p> <p>c. That the upset resulted from factors beyond the reasonable control of the Permittee and did not result from operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or increases in production which are beyond the</p>	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	<p>design capability of the treatment facilities;</p> <p>d. That at the time of the upset the facility was being properly operated;</p> <p>e. That the Permittee properly notified the Commissioner of the upset in accordance with Minn. R. 7001.1090, subp. 1, item I; and</p> <p>f. That the Permittee implemented the remedial measures required by Minn. R. 7001.0150, subp. 3, item J.</p>	
<b>64. Total Facility Requirement</b>	<p>The Permittee shall at all times properly operate and maintain the facilities and 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. The Permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible Minn. R. 7001.0150, subp. 3, item F.</p>	
<b>65. Total Facility Requirement</b>	<p>In the event of a reduction or loss of effective treatment of wastewater at the facility, the Permittee shall control production or curtail its discharges to the extent necessary to maintain compliance with the terms and conditions of this permit. The Permittee shall continue this control or curtailment until the wastewater treatment facility has been restored or until an alternative method of treatment is provided.</p>	<p>Minn. R. 7001.1090, subp. 1, item C</p>
<b>66. Total Facility Requirement</b>	<p>Solids Management. The Permittee shall properly store, transport, and dispose of biosolids, septage, sediments, residual solids, filter backwash, screenings, oil, grease, and other substances so that pollutants do not enter surface waters or ground waters of the state. Solids should be disposed of in accordance with local, state and federal requirements.</p>	<p>40 CFR 503 and Minn. R. 7041 and applicable federal and state solid waste rules</p>
<b>67. Total Facility Requirement</b>	<p>Scheduled Maintenance. The Permittee shall schedule maintenance of the treatment works during non-critical water quality periods to prevent degradation of water quality, except where emergency maintenance is required to prevent a condition that would be detrimental to water</p>	<p>Minn. R. 7001.0150, subp. 3, item F</p>

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	quality or human health.	and Minn. R. 7001.0150. subp. 2, item B
<b>68. Total Facility Requirement</b>	Control Tests. In-plant control tests shall be conducted at a frequency adequate to ensure compliance with the conditions of this permit.	Minn. R. 7001.0150. subp. 3, item F and Minn. R. 7001.0150. subp. 2, item B
<b>69. Total Facility Requirement – Changes to the Facility or Permit</b>	<p>Permit Modifications. No person required by statute or rule to obtain a permit may construct, install, modify, or operate the facility to be permitted, nor shall a person commence an activity for which a permit is required by statute or rule until the Agency has issued a written permit for the facility or activity. (Minn. R. 7001.0030)</p> <p>Permittees that propose to make a change to the facility or discharge that requires a permit modification must follow Minn. R.</p> <p>7001.0190. If the Permittee cannot determine whether a permit modification is needed, the Permittee must contact the MPCA prior to any action. It is recommended that the application for permit modification be submitted to the MPCA at least 180 days prior to the planned change.</p>	
<b>70. Total Facility Requirement – Changes to the Facility or Permit</b>	<p>Construction. No construction shall begin until the Permittee receives written approval of plans and specifications from the MPCA (Minn. Stat. Sec. 115.03(f)). Plans, specifications and MPCA approval are not necessary when maintenance dictates the need for installation of new equipment, provided the equipment is the same design size and has the same design intent. For instance, a broken pipe, lift station pump, aerator, or blower can be replaced with the same design-sized equipment without MPCA approval. If the proposed construction is not expressly authorized by this permit, it may require a permit modification. If the construction project requires an Environmental Assessment Worksheet under Minn. R. 4410, no construction shall begin until a negative declaration is issued and all approvals are received or implemented.</p>	
<b>71. Total Facility Requirement – Changes to the</b>	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	Minn. R. 7001.0150, subp. 3, item M



PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

<b>Facility or Permit</b>	conditions of this permit.	
<b>72. Total Facility Requirement – Changes to the Facility or Permit</b>	<p>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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>a. The process for which the additive will be used;</li> <li>b. Material Safety Data Sheet (MSDS) which shall include aquatic toxicity, human health, and environmental fate information for the proposed additive;</li> <li>c. A complete product use and instruction label;</li> <li>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</li> <li>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.</li> </ul> <p>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.</p>	Minn. R. 7001.0170
<b>73. Total Facility Requirement – Changes to the</b>	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 without	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

<b>Facility or Permit</b>	reissuance this permit pursuant to Minn. R. 7001.0180.	
<b>74. Total Facility Requirement – Changes to the Facility or Permit</b>	TMDL Impacts. Facilities that discharge to an impaired surface water, or to a watershed or drainage basin that contains impaired waters, may be required, at some future date, to comply with additional permits, or permit requirements, including additional restriction or relaxation of limits and monitoring as authorized by the CWA 303(d)(4)(A) ) and 40 CFR 122.44.1.2.i, based on the conclusions of any applicable US EPA approved Total Maximum Daily Load (TMDL) studies, their associated implementation plans or additional sampling or monitoring.	
<b>75. Total Facility Requirement – Changes to the Facility or Permit</b>	Permit Transfer. The permit is not transferable to any person without the express written approval of the Agency 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.	Minn. R., 7001.0150, subp. 3, item N
<b>76. Total Facility Requirement – Changes to the Facility or Permit</b>	Facility Closure. The Permittee is responsible for closure and postclosure care of the facility. The Permittee shall notify the MPCA of a significant reduction or cessation of the activities described in this permit at least 180 days before the reduction or cessation. The MPCA may require the Permittee to provide to the MPCA a facility Closure Plan for approval. Facility closure that could result in a potential long-term water quality concern, such as the ongoing discharge of wastewater to surface or ground water, may require a permit modification or reissuance. The MPCA may require the Permittee to establish and maintain financial assurance to ensure performance of certain obligations under this permit, including closure, postclosure care and remedial action at the facility. If financial assurance is required, the amount and type of financial assurance, and proposed modifications to previously MPCA-approved financial assurance, shall be approved by the MPCA.	Minn. Stat. Sec. 116.07, subd. 4
<b>77. Total Facility Requirement– Changes to the Facility or Permit</b>	<p>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):</p> <p>a. The Permittee is not in substantial compliance with the requirements of this permit, or with a</p>	

PART 2

MPCA's April 10, 2008 Working Draft General Permit Language

	<p>stipulation agreement or compliance schedule designed to bring the Permittee into compliance with this permit;</p> <p>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;</p> <p>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.</p>	
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