

**Detailed Comments of the Canadian Shipowners Association
on the Minnesota Pollution Control Agency's proposed Amendment to
Rules by Removing and State Exemption from NPDES Permitting for Vessel
Discharges AND proposed Ballast Water Discharge General Permit**

April 23, 2008

The Canadian Shipowners Association represents the owners of ships trading in the Great Lakes and St. Lawrence Seaway. Our members' fleet comprises 68 vessels with an annual volume of about 65 million tonnes in 2006, of which 33.5 million tonnes – more than half – were carried between Canada and the United States. We are providing herein comment on the following items:

1. the draft of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit Program's Ballast Water Discharge General Permit posted by the Minnesota Pollution Control Agency (MPCA) on their website April 10, 2008.
2. the Possible Amendment to Rules by Removing the State Exemption from National Pollutant Discharge Elimination System Permitting for Vessel Discharges Codified in *Minnesota Rules* 7001.1030, subpart 2(A).

First, we would like to clearly state our position that the proper use of ballast water is critical to the safe operation of cargo ships, and that the cargo ships plying their trade in the Great Lakes are critical to the well-being of the economies of Minnesota and of North America as a whole. This being said, we and our member companies recognize the importance of maintaining an environmentally sustainable marine transportation industry. We are committed to developing and employing best practices and procedures that embrace continuous improvement through new technology, management principles and cooperation with government, industry and the public.

Second, we echo the position of the Lake Carriers Association, the Shipping Federation of Canada and others who support a unified federal approach to ballast water regulation in the United States. A patchwork of different standards and approaches distinct to each of the Great Lakes states will create a disjointed and ineffective response to important environmental issues as well as a cumbersome administrative burden which would affect the competitive position of the marine industry in the Lakes.

With respect to the proposed permit requirements, specifically the requirement to install ballast water treatment technology on ships discharging ballast water to Minnesota state waters, we present the following information:

1. The Canadian Great Lakes fleet does not pose a risk of introducing new invasive species to the Great Lakes

Non-ocean-going ships such as ours operate within the limits of the Great Lakes and St. Lawrence ecosystem, and therefore are not a risk for introduction of new invasive species to the lakes. Our vessels already operate according to voluntary best management practices for ballast water management which have proven to be effective in guarding against spreading invasive species and diseases.

At a workshop on ballast water convened by the US Coast Guard in January, 2008, a representative of the US Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) indicated that the greatest risk of transmission of viral hemorrhagic septicemia (VHS) was from the movement of live fish from areas of infection to other areas without. The presence of viral particles in the water, or even of pieces of dead fish posed a much lower risk of actual transmission. Best management practices used by our vessels, such as fitting gratings with the smallest openings allowed by good engineering practice – in practice this means half an inch or less – on ballast water intakes and mandating the use of pumps for all ballast water movements where the bottom will not be disturbed, make it all but impossible for live fish to enter the ballast tanks without being pulverized by the pumps.

As a result of this, the ballast water we carry presents a low risk for transmission of VHS. Duluth-Superior received nearly 30% of all ballast water discharges taken up in the Great Lakes and St. Lawrence Seaway in 2005 – over twenty million metric tonnes – and no outbreaks of VHS have yet occurred. Best management practices for lake ships have also prevented the spread of ruffe from Duluth to other Lake Superior ports such as Thunder Bay, and they can be effective in this case as well.

2. Installation of ballast water treatment systems within 5 years of permit issuance is not currently feasible and may create other environmental consequences.
 - a. Installation of treatment systems in existing vessels is not feasible within current ship design. Lake ships are designed to optimize carrying capacity within the constraints of the lock dimensions. These vessels do not have the space available onboard in which to install ballast water treatment systems and the associated piping. Phasing in of treatment systems would have to be considered within the context of fleet renewal.
 - b. Currently available ballast water treatment systems are not designed for Great Lakes trade and operational requirements. Lakers generally carry much larger volumes of ballast water than ocean-going vessels do, and have to be able to take on or discharge ballast quickly when loading or unloading cargo. In addition, lake ships often make transits from departure to destination in a matter of hours. Since today's most promising treatment systems are rate-limited or require a certain minimum residency time to be

effective, these vessels will require a large number of treatment systems in order to be able to treat the required volumes within a practical timeframe or delay passage until treatment is complete before putting in at the destination. The requirement to greatly increase the transit time on short voyages will render the marine mode uneconomic and would likely result in traffic shifting to other modes such as trucks (as discussed below).

- c. Fleet renewal to accommodate treatment systems within 5 years is not economically feasible. Phasing in of treatment systems would have to be considered within the context of fleet renewal. Our members' ships represent a capital stock of billions of dollars and cannot be replaced quickly.
 - d. Treatment systems could lead to increased emissions of air pollutants and greenhouse gases. Ballast water treatment systems will require energy, which will have to come from onboard generators and could lead to increased emissions of air pollutants and greenhouse gases while discharging or taking on ballast.
3. A requirement to install ballast water treatment technology may render the shipping industry uncompetitive in the Great Lakes

The loss of the ability to ship large quantities of bulk commodities on the Great Lakes would likely lead to a shift to land modes instead, since those commodities will need to move by one means or another. This shift from marine to rail or truck would incur serious environmental costs in terms of air pollution and greenhouse gas emissions. This scenario ignores the fact that some major facilities in the steel-making industry, for example, are only equipped to receive their ore by marine carriers and have no equipment to receive it by rail or road.

We understand that the MPCA is taking this action in order to comply with the 2005 ruling of a Federal District Court that the US Environmental Protection Agency did not have the authority to exempt discharges "incidental to the normal operation of a vessel" from the provisions of the NPDES permit regulations under the Clean Water Act. However, we note that the order vacating this regulation is currently under appeal. We would urge that the appeal process be permitted to conclude before making this rule change which could be unnecessary, depending on the outcome of the appeal.

We believe that the goal of the proposed measures is an important one, but that its implementation will result in a modal shift that may entrain overall environmental impacts which may be greater than those it seeks to prevent. It will effectively shut down the marine trade in and out of Minnesota, which in turn will result in a greater environmental impact as land transport is sought for the commodities stranded by these measures, increasing air pollution and greenhouse gas emissions. The requirement for universal treatment of ballast water is unachievable at present and includes lakereaders which are demonstrably not

the source of new invasive species. In summary, while we support the overall goal of the proposed permit, we believe that a requirement for universal treatment of ballast water is impractical and unfairly affects lake carriers who present a very low risk of introducing AIS.

We hope that the Agency will take a close look at the full scope of the implications of this permit on marine transportation in Minnesota and on the industries that it serves before finalizing the language of the permit. We believe that the permit should give appropriate recognition to the distinct circumstances of the non-ocean-going shipping industry, and that this can be achieved while still providing the needed level of environmental protection. Thank you for the opportunity to present our views.