



Duluth Seaway Port Authority

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May 5, 2008

Mary Jean Fenske
MPCA
Industrial Division
520 Lafayette Road North
St. Paul, MN 55155-4194

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

Dear Ms. Fenske:

The Duluth Seaway Port Authority wants to thank the MPCA for the openness being exhibited during this complex period during which you are writing rules for the inclusion of ship ballast in the Minnesota NPDES permitting system. While the Authority believes strongly that the best and most effective method of protecting the waters of Minnesota from ballast borne invasive species will be through comprehensive federal and Canadian control, we recognize that the absence of such a level of control has forced Minnesota to proceed with rulemaking under the Clean Water Act in accordance with the 2006 by federal court order. Pending a decision on the current appeal of this order, Minnesota is moving ahead to have a ballast water permit program in place by the required date of September 30, 2008.

The Authority has several comments to make regarding the April 10, 2008 working draft of the MPCA Ballast Water NPDES/SDS Permit Development Document.

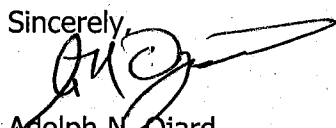
1. A number of Great Lakes vessels, while providing an economical, low environmental impact service to their customers on the Great Lakes, have a low market value that will not support a large capital outlay for ballast water treatment technology. It is our hope that economical options will be developed and that these may be applied to such vessels. It may be necessary that, in order to not create economic hardship on a given vessel, that the treatment standards will need to be adjusted for certain ships to permit them to continue in business. We do not have specific recommendations to make in this regard, but suggest that the permit rules be developed to allow or certify certain treatment options that may not be considered ideal but could be considered an acceptable compromise treatment technology for certain vessels that may not be able to operate otherwise.
2. It is highly recommended that Minnesota treatment specifications align with the proposed IMO and/or federal regulations, and we are happy to see that MPCA has proposed treatment standards that are aligned generally with the currently proposed IMO regulations. We do not believe, however, that the proposals for testing and on board record keeping of effluent tests will be acceptable to the foreign flag ships that

visit Minnesota waters. Many of the 100 to 150 foreign ships that visit Minnesota waters each year are not necessarily on regular Great Lakes trade. For example, many of the ships that visit our waters may be five to 10 years old and have never visited our waters before, and may not be back for five or more years if ever. The proposed testing and performance proof standard is not required by IMO or even the currently proposed new federal standard that was passed recently by the House of Representatives. This is an area of proposed oversight that will become a strong deterrent from vessels who visit the area only on an occasional basis, particularly if our state is currently the only entity in the world suggesting that such testing and recordkeeping should be accomplished.

3. We are very concerned about the section "6. Prohibited Discharges (a)". This section apparently would give the Minnesota DNR the right to prohibit vessel discharges in DNR designated scientific and natural areas. There is no test of financial acceptability. There is no assurance that such a designation would not ever be applied to a current harbor and effectively be used to stop all shipping. Even the most pristine natural area may need to be visited by a commercial vessel that needs to erect a structure meant only for visitors (or to bring the visitors to the area). The St. Louis River is widely known as an important estuary supporting many kinds of wildlife. It will soon become the subject of a long term federal research program. This rule could give the DNR authority to unilaterally ban all shipping- without the need to demonstrate the impacts upon the state, its businesses, citizens and upon the many surrounding states that depend on Minnesota commercial harbors. We believe this would be an unintended extreme consequence of such a rule but such extremes must be considered while writing such an important rule as is being undertaken.
4. The general language in the included Part II makes reference to other discharge streams from vessels besides ballast water. These references should be eliminated.
5. Note that the effective length of time between dry docks for Great Lakes vessels is six years. Any rule that would require compliance prior to six years will single certain vessels to need to dry dock before they are due. This may be a hardship on the owners and may not be possible to schedule with the shipyards.
6. We also note that there is no equipment currently certified to treat the ballast water on ships visiting the Lake Superior ports of Minnesota. While we expect treatment technologies to come available within the next couple of years, their application may require certain modifications to any permit rule written this year by the MPCA. The final rule should specifically require ongoing review that will permit modification in line with the developing field of ballast treatment technology.

We want to again thank the MPCA for the opportunity to comment at this time and at this early stage in the development process of this new rulemaking.

Sincerely,



Adolph N. Ojard
Executive Director

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