



May 1st, 2008

Mary Jean Fenske

Minnesota Pollution Control Agency
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 Shipping Federation of Canada, representing over 90 percent of oceangoing vessels (international cruise and cargo) trading to and from ports in Atlantic Canada, the St. Lawrence and the Great Lakes, would like to offer the following comments regarding the current language of the Minnesota Vessel Discharge General Permit. This is in addition to the comments regarding the rulemaking process that we previously submitted on April 23rd.

Legislative Developments at the Federal Level

First of all, we believe it is important to draw your attention to recent legislative developments at the federal level. Last week, the House of Representatives approved Bill H.R. 2830 (which was introduced by Minnesota Congressman James Oberstar), mandating ballast water treatment standards that are one-hundred times more stringent than those required by the IMO. This will ensure that Lake Superior has the level of protection it needs, while also providing a consistent federal framework for regulating ballast water that is more amenable to shipping operations than a fragmented, state-by-state approach. Given this combination of a national approach and an extremely stringent ballast water treatment standard, we believe that this legislation represents a “win-win” scenario for both the State of Minnesota and the shipping industry.

We would also draw your attention to the joint [proposal](#) regarding ballast water management that was recently developed by the U.S. Coast Guard & the Environmental Protection Agency (EPA). All U.S. and foreign-flagged vessels transiting into U.S. waters would be covered by this proposal, which also provides for the possibility of developing legislation on national uniform discharge standards that would serve as an alternative to regulating ships under the NPDES program. The proposal provides for a phased-in approach, with IMO standard D-2 applicable four years after enactment, and standards that are one-hundred times more stringent than D-2 becoming applicable four years thereafter (although these implementation dates could be advanced should treatment technologies become available earlier).

Given that both these regimes would go a long way towards ensuring the protection of the waters of Lakes Superior while simultaneously avoiding regulatory fragmentation, we strongly recommend that the Minnesota Pollution Control Agency delay implementation of its permit program while Bill H.R. 2830 and the joint U.S. Coast Guard / EPA proposal are being developed.

Specific Comments on the Draft Permit

First, we would like to make the following comments with respect to the language of the Working Draft General Permit:

1. Part 1

We forecast a number of enforcement issues arising from the current language of the permit, including the need for more specificity with respect to the definition of the “permittee.” As currently written, it is unclear whether it is the ship owner or the ship operator who would apply for the permit, and whether it is the “permittee” who would be held responsible for compliance with the permit provisions?

We would also like to highlight a number of considerations related to specific provisions of the permit:

- Part I, section 6(a): Our understanding is that the permit covers ballast water discharges only – as such, we do not understand the reference to sewage and industrial waste, especially since these discharges are already covered in other legislation.
- Part II, Table B: We would like to point out that there are currently no technologies approved by the U.S. Coast Guard, the Federal agency authorized by Congress to develop a national regulatory program to prevent the introduction and spread of aquatic non-indigenous species (NIS) into U.S. waters via ballast water discharges from vessels. We would therefore be interested in having more information on the data sources used by the MPCA in order to develop the effluent limitations included in Table B.
- Part IV, section 13 (a) and (b): add “or” in between the two items.

2. Part 2

We would recommend that either the language included in this provision be modified or that it be removed entirely. Although we understand that using language common to most water quality permits issued by the MPCA is intended to guide the permit development process, it nevertheless remains that vessels cannot be considered as stationary point sources of pollution and as such, the “facility” definition must be adapted to the maritime context.

Before closing, we take this opportunity to reiterate our commitment to protecting the waters of Lake Superior in a way that is both satisfactory to the Minnesota legislature, the MPCA and the state’s population, while ensuring that such actions do not unnecessarily complicate operations for oceangoing vessels calling at Minnesota ports.

We thank you for the opportunity to provide our views on the Working Draft Language of the Minnesota Vessel Discharge General Permit, and would be pleased to provide any additional clarification or information you may require.

Respectfully submitted,

Caroline Gravel
Director, Environmental Affairs
Shipping Federation of Canada

The Shipping Federation of Canada (The Federation), incorporated by an Act of Parliament in 1903, acts as the pre-eminent voice of shipowners, operators and agents involved in Canada’s world trade. Its overall objective is to work towards a safe, competitive and environmentally sustainable marine transportation system. As an industry leader on marine environmental issues, the Federation serves as a frontline information resource on environmental regulations, policies and practices applicable to ships trading in Canadian waters; promotes the importance of international conventions and standards as the optimal means of responding to environmental challenges; and provides operational know-how and expertise in the development of best practices and management systems.

The Federation’s membership consists of the Canadian companies that own, operate or act as agents for 95 percent of ocean vessels trading to and from ports in Atlantic Canada, Newfoundland & Labrador, the St. Lawrence River and the Great Lakes – vessels which are responsible for transporting virtually all of the trade moving between eastern Canada and ports overseas. The Federation’s members also represent virtually all the international cruise vessels calling at eastern Canadian ports.