

BEFORE THE
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Ballast Water)
 General Permit No. WI-0063835-02-0)
 to Discharge under the Wisconsin Pollutant)
 Discharge Elimination System, issued)
 April 1, 2015)

**ORDER ACCEPTING STIPULATION BETWEEN WISCONSIN DEPARTMENT
 OF NATURAL RESOURCES AND LAKER VESSELS PETITIONERS
 AND DISMISSING LAKER VESSELS PETITIONERS' REQUEST FOR
 CONTESTED CASE HEARING**

Based on the Stipulation between the Wisconsin Department of Natural Resources and the Laker Vessels Petitioners (as defined in the Stipulation), which is attached and is accepted by the Division of Hearings & Appeals, IT IS HEREBY ORDERED that the Wisconsin Ballast Water General Permit (Permit), referenced above, is hereby AMENDED as follows:

1. The Table in Subsection 4.1 shall be revised as follows:

Reference	Application	Discharge Standard	Effective Date
Table A 4.2.1	New Oceangoing Vessels	IMO Standard	For vessels constructed after Dec. 1, 2013, on delivery.
Table A 4.2.1	Existing Oceangoing Vessels	IMO Standard	First scheduled dry-docking after January 1, 2016, provided that if freshwater ballast water treatment systems (BWTs) are approved by the USCG and commercially available and compatible for a specific vessel before the first scheduled dry-docking after January 1, 2016, the vessel owner will make reasonable efforts to install a treatment system at the earliest practicable date.

Table A 4.2.1	Great Lakes Vessels	Discharge Requirements for Great Lakes Vessels in the VGP	Immediately.
Table B 4.2.2	All Vessels	Biocide limits according to ch. NR 106, Wis. Adm. Code	Immediately.
4.4	All Vessels	BMPs	Immediately.

2. Section 4.1.2 shall be revised as follows:

4.1.2 Great Lakes Vessel Requirements

Vessels that operate exclusively within the Great Lakes and St. Lawrence Seaway System are subject to the Discharge Standard in Table A, and shall also follow their Ballast Water and Sediment Management Plan (refer to Subsection 4.3) to prevent the spread of any AIS or diseases (such as VHS) in the Great Lakes.

3. The Table in Subsection 5.2 shall be revised as follows:

Required Action	Date Due
Discharge Standards – New Vessels: New oceangoing vessels constructed on or after December 1, 2013, which meet the applicability criteria in Subsection 1.1, shall comply with the IMO standards in Table A of Subsection 4.2.1	December 1, 2013.
Discharge Standards – Existing Oceangoing Vessels: Oceangoing vessels constructed prior to December 1, 2013, which meet the applicability criteria in Subsection 1.1, shall comply with the IMO standards in Table A of Subsection 4.2.1	First scheduled dry-docking after January 1, 2016, provided that if BWTs are approved and commercially available and compatible for a specific vessel before the first scheduled dry-docking after January 1, 2016, the vessel owner will make reasonable efforts to install a treatment system at the earliest practicable date.
Discharge Standards – Existing Great Lakes Vessels: Great Lakes vessels shall comply with discharge requirements for Great Lakes vessels in the VGP.	Immediately.
Biocide Effluent Limits: Oceangoing and Great Lakes vessels meeting the applicability criteria in Subsection 1.1, and choosing to utilize a biocide water treatment additive, shall comply with the Table B biocide effluent limits and other applicable requirements in Subsection	Immediately.

4.2.2. The effluent limit for total residual chlorine, or a use restriction determined by the Department for other biocides, is effective immediately and whenever the biocide is used.	
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4. The amendments to the Permit take effect on the date this Order is signed.
5. The Laker Vessels Petitioners' request for a contested case hearing is hereby DISMISSED WITH PREJUDICE.

Dated at Milwaukee Madison, Wisconsin on July 26, 2017.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
819 North 6th Street, Room 92
Milwaukee, Wisconsin 53203
Telephone: (414) 227-4781

By: _____


Eric D. Defort
Administrative Law Judge

requirements, but does not require Great Lakes vessels to install ballast water treatment systems that meet the IMO standards.

6. The 2013 EPA VGP expires December 19, 2018. WDNR expects EPA will issue a draft new VGP in 2017 and finalize the new VGP on December 20, 2018. The new VGP must be consistent with the U.S. Court of Appeals, 2nd Circuit, decision in *Natural Resources Defense Council, et al v. United States Environmental Protection Agency, et al*, 808 F.3d 556 (2015).

NOW THEREFORE, WDNR and the Laker Vessels Petitioners hereby stipulate and agree to the following:

1. WDNR and the Laker Vessels Petitioners conclude it is in the interest of both parties to resolve the Petitioners' request for contested case hearing by agreeing to modify the language of the Permit to be consistent with the 2013 EPA VGP.
2. The Permit shall be modified to be consistent with the 2013 EPA VGP, as follows:

The Table in Subsection 4.1 shall be revised as follows:

Reference	Application	Discharge Standard	Effective Date
Table A 4.2.1	New Oceangoing Vessels	IMO Standard	For vessels constructed after Dec. 1, 2013, on delivery.
Table A 4.2.1	Existing Oceangoing Vessels	IMO Standard	First scheduled dry-docking after January 1, 2016, provided that if freshwater ballast water treatment systems (BWTs) are approved by the USCG and commercially available and compatible for a specific vessel before the first scheduled dry-docking after January 1, 2016, the vessel owner will make reasonable efforts to install a treatment system at the earliest practicable date.
Table A 4.2.1	Great Lakes Vessels	Discharge Requirements for Great Lakes Vessels in the VGP	Immediately.
Table B 4.2.2	All Vessels	Biocide limits according to ch. NR 106, Wis. Adm. Code	Immediately.
4.4	All Vessels	BMPs	Immediately.

3. Section 4.1.2 shall be revised as follows:

4.1.2 Great Lakes Vessel Requirements

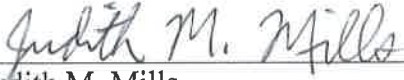
Vessels that operate exclusively within the Great Lakes and St. Lawrence Seaway System are subject to the Discharge Standard in Table A, and shall also follow their Ballast Water and Sediment Management Plan (refer to Subsection 4.3) to prevent the spread of any AIS or diseases (such as VHS) in the Great Lakes.

4. The Table in Subsection 5.2 shall be revised as follows:

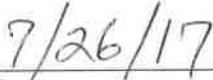
Required Action	Date Due
Discharge Standards – New Vessels: New oceangoing vessels constructed on or after December 1, 2013, which meet the applicability criteria in Subsection 1.1, shall comply with the IMO standards in Table A of Subsection 4.2.1	December 1, 2013.
Discharge Standards – Existing Oceangoing Vessels: Oceangoing vessels constructed prior to December 1, 2013, which meet the applicability criteria in Subsection 1.1, shall comply with the IMO standards in Table A of Subsection 4.2.1	First scheduled dry-docking after January 1, 2016, provided that if BWTs are approved and commercially available and compatible for a specific vessel before the first scheduled dry-docking after January 1, 2016, the vessel owner will make reasonable efforts to install a treatment system at the earliest practicable date.
Discharge Standards – Existing Great Lakes Vessels: Great Lakes vessels shall comply with discharge requirements for Great Lakes vessels in the VGP.	Immediately.
Biocide Effluent Limits: Oceangoing and Great Lakes vessels meeting the applicability criteria in Subsection 1.1, and choosing to utilize a biocide water treatment additive, shall comply with the Table B biocide effluent limits and other applicable requirements in Subsection 4.2.2. The effluent limit for total residual chlorine, or a use restriction determined by the Department for other biocides, is effective immediately and whenever the biocide is used.	Immediately.

5. Laker Vessels Petitioners agree to withdraw their petition for a contested case hearing if the Permit is modified in accordance with this Stipulation.

NOW THEREFORE, DNR and the Laker Vessels Petitioners hereby request that the Administrative Law Judge issue the attached Order, in accordance with the terms of this Stipulation.



Judith M. Mills
Attorney for DNR



Date



Thomas P. McElligott
Attorney for Laker Vessels Petitioners



Date