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# **State Ballast Water Programs: Legislation, Regulation, Litigation, Oh My!**

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# Sources of Authority

- Clean Water Act
  - Water Quality Standards
  - NPDES Permits
    - *Northwest Environmental Advocates v. EPA* (N.D. Cal. Sept. 18, 2006).
    - September 30, 2008 deadline for federal permit program
- National Invasive Species Act
- Police Powers
  - Protect public health and welfare

# Michigan

- Oceangoing vessels must obtain state NPDES permit from MDEQ.
- MDEQ approved four treatment methods
  - Hypochlorite
  - Chlorine Dioxide
  - UV light radiation
  - Deoxygenation
- \$75 application fee; \$150 annual fee for general permit, \$400 for individual permits.
- *FedNav, Ltd. v. Chester* (E.D. Mich. Aug. 15, 2007)
  - On appeal to Sixth Circuit Court of Appeals

# Minnesota

- HF 2963/SF2517 (February 2008)
  - Compliance with IMO standards by January 1, 2009.
  - Permit required from MPCA after January 1, 2011.
    - Vessels must meet BW uptake, discharge, treatment, and sediment management requirements established by MPCA.
  - Ballast Water Exchange Requirements
  - Ballast Water Treatment Requirements

# Proposed Treatment Standards

- Less than 1 living organisms per 10 cubic meters that is 50 or more  $\mu\text{m}$ ;
- Less than 1 living organism per ten mL that is less than 50  $\mu\text{m}$  and more than 10  $\mu\text{m}$ ;
- Concentrations of indicator microbes that are less than:
  - One colony forming unit of toxicogenic *Vibrio cholera* (serotypes O1 and O139) per 100 mL or less than one colony forming unit of that microbe per gram of wet weight of zoological samples; and
  - 126 colony forming units of *Escherichia coli* per 100 ML; and
  - 33 colony forming units of intestinal *Enterococci* per 100 ML.

# NPDES/SPS Permit

- Minnesota Pollution Control Agency is developing a NPDES permit program.
  - Need to comply with 9/30/08 deadline
  - Minnesota Center for Environmental Advocacy v. MPCA
- BMPs, Effluent Limitations, BATs
- Permit by September 20, 2008

# Wisconsin

- AB 86/SB 199 (Introduced Feb/March 07)
- Operator of oceangoing vessel must obtain permit from DNR.
  - Demonstrate that vessel is not capable of taking on ballast water or
  - Equipped with environmentally sound technology to prevent introduction of ANS.
- \$750 application fee; \$8,700 annual fee

# Indiana

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- SB 286 (Introduced 1/10/08)
- Require oceangoing vessels to obtain a permit from IDEM
  - Demonstrate that vessel will not discharge ANS or
  - Use environmentally sound technology and methods, as determined by IDEM

# Ohio

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- HB 298 (Introduced 10/23/07)
- Oceangoing vessels must obtain permit from Division of Wildlife in DNR
  - Demonstrate vessel will not discharge ballast water or
  - Operator will use environmentally sound technology and methods identified by DNR.
- Great Lakes Aquatic Nuisance Species Coalition

# Contact Information

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