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Sent: Wednesday, March 19, 2008 12:10 PM
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Subject: Proposed language for MPCA ballast water regulation

Mary Jean and Jeff:

Thank you for the informative meeting on 3/4 in Duluth -- I thought I had sent already this but to my dismay rediscovered it in my "draft" folder today. I appreciate your asking me for language to help you understand the suggestion I made about prohibiting ballast water exchange in sensitive waters; I hope you can still use this.

For background, the US Coast Guard has an existing regulation (33 CFR 151.2035(a)(1)) which says the following:

Sec. 151.2035 What are the required ballast water management practices for my vessel?
(a) Masters, owners, operators, or persons-in-charge of all vessels equipped with ballast water tanks that operate in the waters of the U.S. must:
(1) Avoid the discharge or uptake of ballast water in areas within or that may directly affect marine sanctuaries, marine preserves, marine parks, or coral reefs.

NPS has been told by USCG personnel that this rule can and should be applied to all waters within National Park Service units, including in the Great Lakes, though they acknowledge that this hasn't been communicated well (if at all!) In other words, it's a nice theory but it isn't helping in Lake Superior. They also say that the word "avoid" means just that -- it is a suggestion, not a requirement.

My proposal is that you take the USCG regulation as a starting point and be much more explicit for Minnesota waters. Here is suggested language for your consideration:

The discharge or uptake of ballast water is prohibited within the boundaries of all national park units, national fish or wildlife refuges, state parks, state fish or wildlife refuges, or _____
(this clearly needs to be defined explicitly).

This will only really be effective if Minnesota's leadership on this issue can be extended to actions of the other states on Lake Superior, or (hopefully someday) the federal regulation. But we have to start somewhere!

My professional interest is in the national park units, of course, so I add in the other protected areas to be inclusive -- but if you are inclined to be more restrictive, the national park units are by law the most nationally-significant lands and waters in the US, so I'd start there.

Thank you for the opportunity to have input.

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