

NPS comments, 4-30-08.txt

From: Ramona_Turner@nps.gov on behalf of Ernie_Quintana@nps.gov
Sent: Wednesday, April 30, 2008 2:44 PM
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Subject: Minnesota Ballast Water Permit

OFFICIAL CORRESPONDENCE SENT VIA ELECTRONIC MAIL
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, Nebraska 68102

NO HARD COPY TO FOLLOW

April 30, 2008

N16(MWR-RD)

Ms. Mary Jean Fenske
Minnesota Pollution Control Agency
Industrial Division
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Dear Ms. Fenske:

We would like to thank the Minnesota Pollution Control Agency (MPCA) for developing a vessel discharge permit for the Minnesota waters of Lake Superior and for holding public comment meetings regarding the draft Vessel Discharge Permit. Along with other agencies, organizations, and individuals, we realize that aquatic invasive species cause extensive ecological and community infrastructure damage and are of great concern throughout the Great Lakes basin and the nation. The National Park Service (NPS) commits substantial research, monitoring, and regulatory energy toward addressing aquatic invasive species issues in Great Lakes area park units every year.

We commend the MPCA for taking this step to reduce the threat of introduction and further spread of aquatic invasive species in the Great Lakes, and encourage MPCA to move forward even as other Federal legislation is being proposed. We offer the following general comments regarding the draft permit:

Provisions for Protected Areas: It is appropriate that ballast water discharge is prohibited in the State of Minnesota natural and scientific areas (as noted in Part I-6-a). We encourage the addition of specific language clarifying the prohibition of such discharge in other protected waters, such as those in units of the National Park System (i.e., Grand Portage National Monument). For example, "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 [enter other natural areas]". The National Park Service would be glad to provide boundary definitions for affected park units to the MPCA. Additionally, the National Park Service endorses the Grand Portage Band of Lake Superior Chippewa's suggestion to include a "Grand Portage Zone" as part of the protected areas provision.

Consistency with Other Efforts: We support the development of water quality-based discharge standards that are consistent with those of the International Maritime Organization. However, we are concerned that these standards 1) do not address certain small organisms or pathogens of concern (e.g., the fish virus Viral Hemorrhagic Septicemia), and 2) may not apply to vessels declaring "No Ballast on Board." We note that the recent Court Order by Ramsey County District Court Judge Kathleen Gearin (April 21, 2008) specifically referred to risks associated with Viral Hemorrhagic Septicemia. We recommend that Minnesota's final vessel discharge standards go beyond the International Maritime Organization's standards, addressing the threat posed by this virus. Additionally, we encourage the MPCA to work closely with other State agencies to develop a consistent approach to ballast water management for the Great Lakes region.

Timeline: The proposed timeline for permit implementation is reasonable from a regulatory perspective. However, we note that it may not be soon enough to prevent additional aquatic invasive species (e.g., Viral Hemorrhagic Septicemia) from entering the waters of Lake Superior. Interim provisions addressing emergency treatment options would be a welcome addition to the current draft permit. Additionally, determining and defining Best Management Practices as soon as possible will be an important step in preventing further spread of aquatic invasive species during the permitting process.

Permit Applicability: We are pleased that the draft permit is comprehensive in its application to both ocean-going and Great Lakes vessels. However, it is unclear why the U.S. Armed Forces are to be exempted. The final permit draft should clarify this point and encourage U.S. Armed Forces vessels to comply with the permit requirements where possible.

Monitoring Guidelines: The current permit draft notes that only two samples per year will be collected during discharge events. This seems infrequent, given the number of annual discharge events per vessel, the increasing threat of invasive species introductions with increasing discharges, and the seasonal variation in invasive species abundance. Monitoring frequency should be increased if possible, and the timing of monitoring events should coincide with times of peak biological and shipping activity (i.e., spring and summer). Additionally, the MPCA should develop an adequate funding source to support the required monitoring, through permit fees or other means. Finally, to help evaluate risk and establish early warning systems related to invasive species introductions, we encourage vessels to begin monitoring ballast water prior to the full implementation of treatment systems.

Jurisdictional Domain: We note that ensuring compliance with the proposed standards may require State of Minnesota officials to board vessels and that there may be uncertainty surrounding boarding rights. We encourage the MPCA to clarify its boarding rights in the final permit and to address both domestic and foreign vessels.

In addition to these general comments, we have appended several more specific comments on the draft permit as well as some feedback on the April 16, 2008, public meeting held in Duluth, Minnesota (see enclosures). Questions related to any of our comments may be addressed to Jay Glase, NPS Regional Fishery Biologist (Jay_Glase@nps.gov, 906-487-7167) or Brenda Moraska Lafrancois, NPS Regional Aquatic Ecologist (Brenda_Moraska_Lafrancois@nps.gov, 651-433-5953, ext. 35).

We support Minnesota's efforts to develop a Vessel Discharge Permit, and believe that in combination with other State and Federal efforts it will significantly reduce the risks of aquatic invasive species introductions and related damage to the

region's ecosystems and economies.

Sincerely,
(Embedded image moved to file: pic01416.jpg)

Ernest Quintana
Regional Director

Enclosures 2

CC:

Ms. Julie Galonska, Acting Superintendent, Saint Croix National Scenic Riverway, P.O. Box 708, St. Croix Falls, Wisconsin 54024-0708 Mr. Tim Cochrane, Superintendent, Grand Portage National Monument, P.O. Box 668, Grand Marais, Minnesota 55604-0668 Mr. Costa Dillon, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304-1299 Ms. Phyllis Green, Superintendent, Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan 49931-1895 Mr. Bill Jackson, NPS, Branch Chief, Water Operations, Fort Collins, Colorado Mr. Bob Krumenaker, Superintendent, Apostle Islands National Lakeshore, 415 Washington Avenue, Bayfield, Wisconsin 54814 Mr. Paul Labovitz, Superintendent, Mississippi National River and Recreation Area, 111 East Kellogg Boulevard, St. Paul, Minnesota 55101-1256 Mr. Raoul Lufbery, Acting Superintendent, Voyageurs National Park, 3131 Highway 53, International Falls, Minnesota 56649-8904 Mr. Seth Moore, Fish and Wildlife Biologist, Grand Portage Band of Chippewa, 27 Store Road, Grand Portage, Minnesota 55605 Mr. Jim Northup, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862-0040 Mr. Gary Rosenlieb, NPS, Hydrologist, Water Resources Division, Fort Collins, Colorado Ms. Dusty Shultz, Superintendent, Sleeping Bear Dunes National Lakeshore, 9922 Front Street Highway M-72, Empire, Michigan 49630-9797 Ms. Jerrilyn Thompson, Research Coordinator, NPS Great Lakes-Northern Forests CESU, University of Minnesota, 115 Green Hall, 1530 Cleveland

Avenue North, St. Paul, Minnesota 55108

Mr. Gary Vequist, Associate Regional Director Natural Resources, NPS, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102 Specific comments on the draft Vessel Discharge Permit:

- p. 3 In Part I-5-c-c, the exception allowing discharge of ballast water at the site of its origin, provided that "there is no mixing with ballast water and sediments from another area", seems contradictory given that there are nearly always residual sediments in ballast tanks that could mix with additional water taken on. Please clarify. To avoid release of potentially infected water or sediment, we suggest that ships claiming "No Ballast on Board" (NOBOB) should also be required to discharge nothing unless treatment has occurred.
- p. 8 Regarding Ballast Water Management Practices, Part IV-11-a-a: Some pathogens, such as Viral Hemorrhagic Septicemia virus, may not be verifiably present at the time of ballast water uptake due to analytical delays. The permit should include a provision to avoid taking on ballast water in areas where visual fish kills are occurring.
- p. 8 Regarding Part IV-12-b-a, please clarify what "regularly" refers to in terms of ballast tank cleaning procedures, if this is not detailed in 33 CFR 151.2035.
- p. 9 In Part IV-13-c, it is unclear what "has the occasion to carry ballast water" refers to. Please clarify 1) whether or not NOBOB vessels will be required to comply with these rules, and 2) whether or not ballasted ocean-going vessels in compliance with 33 CFR will be allowed to discharge into Minnesota waters if they have since exchanged or taken on ballast water within the Great Lakes. In our

view, specific language should be included to clarify that NOBOB vessels will also be required to follow all permit requirements.

- p. 10 In Part IV-14, clarify why part (f) of the sediment management plan (which relates to disposal methods) is required, given that Part I-7-b notes that no non-suspended sediments may be exchanged in Minnesota waters.
- p. 12 In Part IV-20-c, regarding surface discharges, please clarify what is meant by "harmful", or note whether or not the more comprehensive language in Minnesota R. 7050.0210 will be included in the final permit.
- p. 13 In Part VI-28-d, there appears to be a typo in terms of the Reportable Limit. In order to ensure compliance with the continuously chlorinated discharge limit of 0.04 mg/l (Part VI-25-a-a, the Reportable Limit should be no greater than 0.038 mg/l, not 0.38 mg/l.

Feedback on the public comment meeting in Duluth, Minnesota, April 16, 2008:

We appreciate MPCA's good work and continued motivation. We commend the commissioner of MPCA for his dedication to take action and his recognition of the seriousness of the issue, as expressed at the meeting on April 16, 2008. The commissioner's comments at the April 16 meeting in Duluth were extremely encouraging and clearly indicate his desire to work with other agencies, the shipping industry and community development proponents to develop a meaningful and effective vessel discharge permit system for the State of Minnesota.

We agree with comments expressed by the Grand Portage Indian Reservation and several others at the April 16 meeting that the time for action is now and that effective treatment of ballast water can and will reduce the threat of new introductions and the spread of existing aquatic invasive species in the Great Lakes. In what we feel is an absence of effective federal regulation thus far, actions taken by states such as Minnesota and Michigan are essential in protecting the Great Lakes and other areas from further damaging effects from aquatic invasive species.

We disagree with comments expressed at the April 16 meeting that billions of dollars and jobs are at risk because of proposed actions to limit aquatic invasive species threats from ballast water discharge. While the NPS is not suggesting that ocean based shipping be banned on the Great Lakes, we refer to a recent report from Grand Valley State University researchers who determined that in the absence of ocean based shipping in the Great Lakes, transportation sector jobs would increase and air quality and congestion impacts in the region would be minimal. Citations: 1) Taylor, J.C. and J.L. Roach. 2005. Ocean Shipping in the Great Lakes: Transportation Cost Increases That would Result from a Cessation of Ocean Vessel Shipping. August 2005, pp 1-89. 2) Taylor, J.C. and J.L. Roach. 2007. Ocean Shipping In the Great Lakes: An Analysis of Issues, Phase II. October 2007, pp 1-54.

We agree with comments that ballast discharge from ocean-going vessels into the Great Lakes poses a significant risk of aquatic invasive species introduction, but wish to emphasize that ballast water exchange by Great Lakes vessels can increase the rate of spread of aquatic invasive species throughout the lakes. We support MPCA requirements that will include Great Lakes vessels under the

discharge permit process.

We disagree with comments from the April 16 meeting that the technology to treat ships' ballast water will not exist in time, and believe that the absence of required treatment has unnecessarily delayed the development of vessel treatment technologies. NPS began treating ballast from the 165 foot vessel the Ranger III in 2007, following State of Michigan regulations for international freighters as guidelines. We continue to explore ways to effectively treat our vessel against aquatic invasive species and pathogens such as Viral Hemorrhagic Septicemia. Though effective treatment of larger freighters would obviously be on a much larger scale, the concept of treatment could be similar. We believe multiple options will exist within the timeframe of the MPCA permit process and suggest from our efforts that certain options for treatment already do exist.

As an agency that prides itself in protecting cultural resources, NPS understands and appreciates the rich cultural history of shipping on the Great Lakes. We believe however, that this culture is not at risk and we reiterate the point that economic devastation is not imminent or even likely due to potential regulations to control aquatic invasive species in the region.