



July 2, 2007

Benjamin H. Grumbles  
Assistant Administrator for Water  
c/o Water Docket  
Environmental Protection Agency  
Mailcode 2822T  
1200 Pennsylvania, Ave., NW  
Washington, D.C. 20460

VIA E-Mail [<mailto:ow-docket@epa.gov> attn: Docket ID No. OW-2007-0483]

RE: Development of Clean Water Act National Pollutant Discharge Elimination System Permits for Discharges Incidental to the Normal Operation of Vessels --Docket ID No. EPA-HQ-OW-2007-0483

Dear Mr. Grumbles:

Imagine if you will, if you were required to have your car registered in Maryland, Virginia and the District of Columbia just so you could travel freely in the D.C. metro area. You would have to fill out the forms, wait in the lines and pay the annual fees for all three jurisdictions in order to conduct simple business. What if you wanted to take a weekend trip to New York City? If you lived in Virginia, you would have to travel from Virginia, through Maryland, Delaware, New Jersey, and finally to New York. But do not set out too soon. First, you need to fill out all of the necessary paperwork, complete all of the permit requirements, ensure that your car meets each state's different standards, mail your checks and finally, wait for each state to grant you a permit to drive on its roads. Only when all the necessary permits finally arrived could you begin your trip. Don't be tempted to take an unplanned detour to Pennsylvania once you are on the road, because you do not have a permit for that state. In this new world, you can no longer travel anywhere in your car without express prior government approval and taxation. This is the world that the new Clean Water Act permit program will create for boaters.

As you know, the Environmental Protection Agency (EPA) alerted the public on June 21, 2007, that it is in the process of developing a new permit program for all types of vessels, including cruise ships, container ships and even the smallest consumer-owned boats. 72 Fed. Reg. 24,241 (June 21, 2007).

Applying the National Pollutant Discharge Elimination System (NPDES) permit program under the Clean Water Act to the discharge of pollutants "incidental to the normal operation of vessels" will mean that individual boaters will be required to obtain from a state or the EPA a permit to operate their boat. In addition, as described above if a boater plans to travel in the waters of

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more than one state; he will need to get a separate permit for each state to do so. This new unparalleled permit program will impact 18 million recreational boat owners nationwide.

EPA has taken this action because a federal judge invalidated a long-standing common sense regulation that exempted the normal discharges of vessels, including recreational boats, from the requirement to have a Clean Water Act (CWA) permit. The court has ordered that this regulatory exemption will disappear on September 30, 2008 and replaced with a new permit program. The focus of this court's decision was the growing concern about the introduction of aquatic invasive species via ballast water from large commercial vessels. However, the consequence of the decision is that every recreational boat owner in the country will be subjected to sweeping, unprecedented new regulations and permit requirements for their boat's normal discharges including bilge water, deck runoff, engine cooling water, and others. If a boater fails to obtain and abide by these new permits, he could be subject to civil and criminal enforcement from EPA, states, and even citizen suits.

This new permit requirement will have a profound chilling effect on recreational boating in the United States and severely limit the ability of boaters to travel from one state's waters to another. Recreational boating is exactly that, recreational, and there is a limit to the amount of paperwork, fees, and bureaucratic red tape that a current or prospective boater will endure in order to get out on the water. Quite simply, if EPA and the states impose this permit program on boaters, they will give up boating and instead spend their time and money on other pursuits.

Even if a boater decided to stick it out and get the necessary permits and pay the fees, it is highly unlikely the permits will result in any meaningful environmental improvement because individual boaters are extremely limited in what they can do to modify a boat's normal discharges such as engine cooling water, deck runoff or bilge water. Applying proven, safe and appropriate new technologies to new vessels and engines is the most effective way to make any meaningful environmental change, in contrast applying a fee-based permit program that requires discharge reporting by the public will do nothing to improve the environment.

Importantly, this action by EPA and the states ignores the good news. Marine manufacturers have made significant strides in improving the environmental "foot print" of recreational boating. Marine manufacturers worked with EPA and the U.S. Coast Guard to develop strict standards for marine sanitation devices, and many of the products sold today far exceed those standards. Of course, the discharge of untreated sewage by vessels has long been prohibited in the United States. In addition, states have continued to seek and have received approval from the EPA to designate No-Discharge Zones for treated sewage. Since the inception of the Clean Vessel Act grant program, \$134.2 million has been given to the states in grants to buy sewage pump-out boats and build pump-out stations onshore. The states also have used the grants to host educational programs to teach thousands of boaters each year about proper sewage disposal.

Recreational marine engine manufacturers have also made substantial advances in clean engine technologies. NMMA worked with EPA on a 1996 rulemaking that required marine engine manufacturers to reduce hydrocarbon and NOx exhaust emissions for spark-ignited gasoline marine engines by an average of 75 percent between 1998 and 2006 on all new outboards and personal watercraft (PWC).

Recreational marine engine and boat manufacturers are poised to make new and significant improvements to their products. EPA has recently proposed a significant new rule that will require spark-ignited (gas) marine engine manufacturers to meet new emission standards beginning in 2009 and boat builders to reduce evaporative emissions from boat fuel systems. Under the proposal, outboard and PWC engines will have to be certified to the same stringent exhaust emission standards as will be required by the California Air Resources Board (CARB) in 2008. For sterndrive and inboard engines, the EPA rule proposes catalyst-based exhaust emission standards that will apply beginning in 2009. In addition, boat builders will be required to change fuel systems with new requirements for fuel hoses, plastic fuel tanks and to control emissions from the fuel tank vent. These fuel system changes will eliminate fuel vent spills. The proposed engine and evaporative emissions rulemaking culminates nearly a decade of NMMA and industry-wide efforts to work with EPA on several data collection projects related specifically to evaporative emissions and engine emissions. It will also lead to the first environmental standard by the American Boat and Yacht Council (ABYC) which will ensure the safe installation of this new fuel system.

Marinas have also played an important role in protecting our waters and educating boaters through the many state and federal clean marina programs. Clean marina programs are voluntary, incentive-based programs that encourage marina operators and recreational boaters to protect water quality by engaging in environmentally sound operating and maintenance procedures. While clean marina programs vary from state to state, all programs establish a floor of acceptable environmental practices and offer information, guidance, and technical assistance to marina operators, local governments, and recreational boaters on best management practices (BMPs) that can be used to prevent or reduce pollution and protect aquatic ecosystems.

In sharp contrast with these successful collaborative efforts, this new permit program will have an immediate and severe negative impact on the hundreds of thousands men and women who are employed by companies that build recreational boats; manufacture marine engines and accessories; sell and service boats; and provide facilities and services for boaters. The majority of the companies that employ these men and women are small businesses who will likely never be able to recover from this program, but will instead see their businesses diminished in its wake. We have no doubt that the effect of this new permit program will be more devastating to the boating industry and water-side communities than the infamous luxury excise tax from the 1990s. NMMA cannot emphasize enough the need to seek out all avenues to avoid the imposition of these onerous and unnecessary permit requirements on recreational boaters.

The new permit program that EPA is being forced to develop is an enormous undertaking of unprecedented scale and will have profound impacts on the recreational boater, the recreational boating industry, and the communities that support them. NMMA urges EPA to ensure it understands fully the impact this proposed program will have on the recreational boating industry before it acts. To assist EPA in this task, we offer to set up frequent consultations for EPA with marine manufacturers and boaters. Please contact Cindy Squires, Esq., NMMA's Regulatory Counsel at 202-737-9766; [csquires@nmma.org](mailto:csquires@nmma.org)) if you want to pursue this offer. I have also attached the NMMA *2005 U.S. Recreational Boat Registration Statistics Report*, which provides detailed statistics on recreational boat registrations and demonstrates just how many millions of American's will be impacted by this new permit program.

Respectfully submitted,



Thomas J. Dammrich  
President

Enclosure:

*NMMA, 2005 U.S. Recreational Boat Registration Statistics Report*

CC:

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