

New Draft Permits for Boaters Released by EPA

On June 17, 2008 the Environment Protection Agency (EPA) proposed two Draft Clean Water Act general permits for boaters. EPA is holding a series of public meetings in D.C., Chicago, and Portland, OR and a webcast. For details go to www.boatblue.org.

Background: These permits are a direct result of a Sept. 2006, U.S. District Court ruling (effective on Sept. 30, 2008) that struck down an EPA regulation that ensured that boaters were not subject to the complex federal and state permitting requirements designed for large point source polluters. The ruling stemmed from a lawsuit brought to halt the introduction of invasive species into U.S. waters through the discharge of ballast water from large, oceangoing commercial ships.

The current situation for boaters in a nutshell:

- Along with the Federal Register notice, EPA also released **two draft permits, extremely long fact sheets and multiple additional supplementary documents**, all of which add up to **a confusing mess for boaters**.
- EPA's Clean Water Act proposal unnecessarily creates a cumbersome, complex and confusing permitting scheme for boaters, throwing them into a regulatory regime designed for land-based industrial facilities like sewer treatment plants.
- As a result, America's 18 million recreational boat owners will be required to observe a multitude of new rules and practices, yet they won't be provided clear information as to how to comply with these new federal requirements by EPA, exposing them to a high degree of regulatory uncertainty, compliance issues and legal jeopardy involving citizen lawsuits and \$32,500 per violation per day penalties.
- The EPA proposal **allows individual states to add state-specific and even water-specific conditions to EPA's general permit** that we won't see until the day the permit is finalized. States can implement their own boating permits, creating the potential for mass confusion with a patchwork of differing state-by-state laws for boaters.
- Recreational boats above a certain length will be categorized as commercial ships and will be required to follow a different and more complex set of permit rules including annual vessel inspections and recordkeeping.
- There are two proposed general EPA permits: One for boats under 79 feet, and another for recreational boats 80 feet and above. This second permit, which also encompasses commercial ships, is even more complicated and makes an arbitrary and unreasonable distinction among recreational boats based on footage in order to classify them as commercial boats.
- **Tell EPA at these public meetings that boaters need clear and easy directions on what they are expected to do under these permits.** Boaters will be subject to citizen suits if they do not follow the terms of these permits.
- **Tell Congress to pass S. 2766 / H.R. 5949 the Clean Boating Act.**

For more information go to www.boatblue.org or contact Cindy Squires (csquires@nmma.org; 202-737-9766) or Mat Dunn (mdunn@nmma.org; 202-737-9760)