



**Comments of The Boat Owners Association of The United States regarding
recommendations for regulation of recreational vessels under the Clean Water Act
(CWA) Section 312(o) Docket ID EPA-HQ-OW-2011-0119**

June 2, 2011

The Boat Owners Association of The United States (BoatU.S.) represents over 500,000 recreational boaters across the country. Our members enjoy this family friendly activity on all types of water around the country, using a wide range of sizes and styles of boats.

In terms of the affected community for future EPA management practices for recreational boats, it's important to note that the vast majority of recreational boats in this country are small (under 16-feet). There are an estimated 12.6 million registered boats in the U.S., a number that has only changed +/- 300,000 in the last 14 years, as well as uncounted human powered craft like canoes and kayaks. The average powerboat was used only 30 days in 2009. Seventy-five percent of the nation's boating households have an income of less than \$100,000.

Over the past fifteen years the recreational boating community has embraced a number of voluntary clean boating and clean marina practices and programs. With ideas ranging from keeping all trash onboard while in near-shore waters (complying with the Marine Plastic Pollution Research and Control Act) to recycling used fishing line, to taking steps to prevent moving invasive species from one water body to another, boaters are pitching in and taking care of the aquatic environment.

What is readily apparent is that a large number of boaters are already actively using "best management practices" on a voluntary basis, as long as they are reasonable, practical, and economical. In order for EPA to get support from boaters for any new "management practices" the Agency should adopt these tenants as a basic standard.

Boaters want clean water.

Boaters are not only on the water, but often in the water, and eating fish that live in the water. With this vested interest in clean water, many of these voluntary clean boating practices have become accepted, even when based on "soft-science" or a total lack of scientific basis.

However, as particular discharges and accompanying management practices are weighed as potential federal mandates, it will become vital for hard science to be used in the cost/benefit implementation analysis for EPA's decision, and to gain the individual boater's buy-in.

A recent example can be found within the development of a new general discharge permit for marinas in Maryland. The regulated community, the marinas, asked the state for the supporting scientific evidence behind limits being placed on particular levels of pollutants. To our knowledge, that request for information had not been satisfied, but the permit has been solidified. As a result, from the start there is considerable consternation and push-back within the regulated community. With this in mind, it will be a critical step for EPA to provide hard reasons and hard science as specific management practices are put forward.

Questions raised in Federal Register Notice 2011-0119:

- Are there specific discharges that should be managed?

Having helped craft the legislative language for the Clean Boating Act, we feel strongly that the guidance to make this decision is written directly into the law. It states that EPA shall consider "the nature of the discharge, the environmental effects of the discharge, the practicability of using a management practice, the effect the management practice would have on the operation, operational capability, or safety of the vessel, applicable Federal and State law and international standards, and the economic costs of the use of the management practice." After going through these "filters", those discharges that remain are the only ones that should be considered for management measures.

- Are there specific recommended effluent limitations for discharges from recreational boats?

The fact that you are even considering effluent limits on millions of recreational boats is troubling. We are not talking about discharges coming out of a factory pipe, with a full time salaried compliance officer assigned to computing effluent rates and filing paperwork. As a result, any requirement for measuring, record-keeping or reporting would be extremely challenging. We would discourage EPA from pursuing management practices that would require such action on the part of

millions of untrained citizens, who are boating in their limited recreational time.

- Are there specific management practices that EPA should consider?
 - Invasive species: The origin of the current Clean Boating Act work conducted by EPA is litigation regarding invasive species threats in the bilges and ballast water from commercial offshore ships. With that in mind, and the growing, continued threat to native waterways from invasive species, it would be a significant accomplishment if EPA could come up with common advice for boat owners nationwide. Unfortunately, with a wide range of species, a “one-stop” answer for boaters has been illusive.

With that in mind, we would strongly discourage a 5 day waiting period between bodies of water from becoming a management practice. While some groups advise this, it is not always practical for either the boater or for enforcement. It would be much more practical to ensure that boaters don't drag weeds from one lake to another (i.e. stuck between the boat and trailer pads), but it would still be difficult to enforce.

- Antifouling paints: Antifouling paints are a necessary part of boating, and they help prevent the spread of invasives. BoatU.S. is concerned about the latest trend on the west coast to ban copper paint for recreational boats, and the implications this has, including the potential to increase invasive species transfer.
- Grey water: The vast majority of boats have been designed to store no grey water. As a result, we were pleased to hear at the EPA webinars no consideration for requiring holding grey water. If external cleaning practices are a concern, we urge EPA to push for product labeling reform, so that consumers can have information to make a scientifically-wise purchasing decision. The nonprofit BoatU.S. Foundation conducted tests on “green cleaning” products last year and found that widespread differences in toxicity as well as inconsistent use of words on label regularly mislead the consumer trying to be a “clean boater.”

- Oily bilge water: While this appears to be of interest to EPA, the discharge of any oil into the water, in a quantity that creates a sheen is illegal, and the boater is required to turn themselves into the Coast Guard. Since it's very visible outside of the boat, boaters take great pains to avoid having oily bilge water. Ditto on gasoline, which can create even larger, more explosive problems. There are many boaters who employ "bilge sock" type absorbent products. However, "proper disposal" can be difficult to achieve at the local level, and could become a larger problem if mandates require the use of such a product.
- Are there permits or rules that EPA should consider to influence its final decision?

There are a range of current federal laws that prohibit the overboard discharge of many things – including fuel, oil, plastics, and garbage. There are other EPA rulemakings, such as upcoming change in diurnal emissions for new engine fuel tanks, which should be considered. Any management practices should be developed to integrate with the already extensive regulatory framework under which recreational boats already operate. In addition, as mentioned above in the "bilge sock" example, the entire lifecycle of a potential required management practice (and its costs and implications on the larger community) should be considered.

- Are there any recommended communications strategies for the future rulemaking and to bolster compliance?

We appreciate the two Annapolis based meetings, and the variety of webcasts created by EPA this spring. Despite this outreach, we remain convinced that the vast majority of boaters are unaware of what is currently happening, and will need to be alerted in different ways and in different venues as this process continues. With an estimated 82 million people on boats last year, it will take multi-year ongoing outreach efforts by the Agency as well as the boating community to get the word out on new mandates. We strongly suggest additional public meetings be held in conjunction with boat shows, as well as wide array of communication methods – written, oral, and internet based. Information will need to be boiled down to it's most simple terms, to increase initial comprehension, decrease resistance, and ultimately increase compliance, with or without enforcement. Outreach will also be necessary within various agencies (i.e. states) who are expected to help enforce these provisions.

In Summary

Management practices, that are based on hard science, and that are reasonable, practical and economical, will be met with the most acceptance within the boating community. We actively appreciate the EPA's efforts to date to reach out to the impacted community, and encourage more interaction with boating groups, boating industry, and the boating public as these ideas are further developed.

On behalf of our boat owning Members, thank you for the opportunity comment at this time. Please feel free to contact us for any clarifications needed or for assistance with further outreach efforts with boaters.

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