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July 25, 2007

Water Docket Environmental Protection Agency  
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Washington, DC 20460  
Attention: Docket ID. No. OW-2007-0483

## Docket ID No. EPA-HQ-OW-2007-0483

Recreational Boaters of California (RBOC) submits the following comments in connection with the 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.

RBOC is the nonprofit governmental advocacy organization that works to protect and enhance the interests of the state's recreational boaters before the legislative and executive branches of state and local government.

RBOC was formed as a statewide organization in 1968 and from that date forward has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

RBOC has several serious concerns with a new National Pollutant Discharge Elimination System [NPDES] permit program that would apply to all types of vessels including 13 million recreational boats nationwide, approximately 1 million of which are registered in California.

This program would require all recreational boaters to obtain a permit, either from the federal government or the state, to operate their boats. The unprecedented scope of this new permitting program would impose severe practical and financial hardships on millions of recreational boaters.

Recreational boats represent a means of recreation and enjoyment to many families. The media is reporting that the cost for the proposed permit may be as much as \$800, plus locally-imposed fees, which would levy an economic hardship on many families and would become a significant cost driver that could drive individuals away from a wholesome means of family recreation.

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This economic disincentive would be even more significant for the many California boaters who enjoy recreating in more than one state. Two of the more popular boating areas are the Colorado River [bordering California and Arizona] and Lake Tahoe [which is in both California and Nevada]. Another popular boating opportunity exists for those who enjoy traveling along the coasts of California, Oregon and Washington. Recreational boaters who enjoy these popular areas and routes would be required to have permits from each of the 3 states, and would therefore incur a cost of around \$2400.

The economic disincentive would be even more significant for the many California boaters whose potential discharges are minimal. Statistics show that half of the registered boats are less than 20 feet and only approximately 6,500 of the total are over 40 feet in length. In addition many of the boats under 26 feet are on trailers and are used infrequently. The potential for pollution coming from these boats in our view is quite limited – yet the full permit would be required.

From a practical perspective, boaters lack confidence that a state permit for recreational boaters would be consistently applied and managed in California through the Regional Water Quality Control Boards in each of the nine regions of the state. Experience has shown that with other public policy issues consistency has not been achieved between the boards' actions. Consistency is critical for the many boats that frequently move around the state and to other regions of the country.

Other approaches would be less onerous and more effective than the proposed permit. Less than one year after the Clean Water Act [CWA] was enacted, the EPA in 1973 first promulgated a regulation that has provided a balanced and reasonable approach to the regulation of vessel discharges. The regulation [40 C.F.R. 122.3] identifies several discharges as being subject to NPDES permitting, and excludes discharges incidental to the normal operation of vessels.

Re-instatement of this regulatory approach would be both practical and useful. The regulation has been in effect for many years, with Congressional knowledge and acquiescence and with no effort to repeal legislatively the EPA's interpretation of the CWA through regulation. We urge the EPA to re-instate the long-standing exemption that has existed for discharges incidental to the normal operation of vessels.

Nationally during this period, strict standards have been developed for marine sanitation devices, the discharge of untreated sewage by vessels has been prohibited, state no-discharge zones have been approved for treated sewage, over \$100 million in federal funds have been provided to states for the purchase of sewage pumpout boats and the construction of

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onshore pumpout stations, and rulemaking has required an average 75% reduction in hydrocarbon and NOx exhaust emissions for new outboard and personal watercraft spark-ignited gasoline marine emissions.

In California, significant actions have been taken including California Air Resources Board emission regulations for 2001, 2004, and 2008 for vessel engine manufacturers. In addition, the Department of Boating and Waterways works as the state grant coordinator for the distribution of federal funds for the construction, renovation, operation, and maintenance of pumpout and dump stations to service recreational boaters.

Also in California recreational boaters, clubs, marinas and the marine industry have undertaken taken initiatives and have made great progress in preventing pollution from boats. Embracing the principal that prevention is better than punishment, the programs work to educate the boating public, clubs and marinas. Through these initiatives, best management practices have been developed to effectively address boat operations.

California's environmental awareness and pro-active initiatives continue to set precedents for the rest of the nation. We cite for the agency's review the following programs:

The California Clean Boating Network      [www.coastal.ca.gov/ccbn/ccbnhomenew.html](http://www.coastal.ca.gov/ccbn/ccbnhomenew.html)

The California Clean Marina Program      [www.cleanmarinascalifornia.org](http://www.cleanmarinascalifornia.org)

With our experience in working together with boater stakeholders, governmental agencies and environmental organizations, it is clear that additional permitting would not help prevent pollution and would be punitive to the California boaters.

Indeed, experience at the national level and here in California demonstrate that there have been numerous other successful endeavors to address and reduce boater-related environmental discharges and to control invasive species. Many of these are likely to be more effective and efficient than NPDES permits.

RBOC appreciates this opportunity to discuss our perspectives with regard to the development of Clean Water Act national pollutant discharge elimination system permits for discharges incidental to the normal operation of vessels.

If there are questions about our position, or if more information is desired, please feel free to contact President Lenora Clark at 925-634-9614, or Jerry Desmond, Jr., RBOC Director of Government Affairs, at 916-441-4166.

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