

Ballast Water Issue Could Seriously Impact Recreational Boating

A recent federal district court ruling in the case of Northwest Environmental Advocates, et. al. v. U.S. Environmental Protection Agency, et. al. that dealt with the problem of foreign and exotic invasive species being introduced into U.S. waters by ballast water from global commercial shipping points has exposed a serious unknown flaw in the law.

In its decision, the court decided that a key Environmental Protection Agency (EPA) regulation in place since 1973, which exempted recreational boats from a permitting requirement for large vessels such as cargo ships and cruise liners was not authorized by the Clean Water Act. The EPA issued the exemption regulation because it recognized that it would be unwieldy and unnecessary for either the agency or each of the fifty-states to issue permits for each and every boat. The agency did not realize the rulemaking may have technically gone beyond the scope of the Act. “The solution is simple: Congress needs to seize the opportunity to act swiftly to maintain the recreational boater exemption. Doing so would not derail the worthy goal of dealing with the ballast water on large ships and tankers to stop the spread of exotic and invasive species, something every boater supports.”

If action is not taken by Congress to clearly authorize and make permanent the exemption for recreational boats, every boater in America will be required to obtain unnecessary permits, and states will have to create and fund very complex, complicated new enforcement entities.