

Follow-up to the Chartered SAB's June 11, 2014 Discussion of the Fall 2013 Regulatory Agenda

Background

On June 11, 2014, the Chartered SAB held a public teleconference to discuss recommendations from the SAB Work Group on EPA Planned Actions for SAB Consideration of the Underlying Science regarding the Fall 2013 Regulatory agenda. During those discussions, the Chartered SAB decided to accept the Work Group's recommendations that no action be taken on four major new planned actions. The Chartered SAB decided that Board members should conduct additional discussions regarding planned Action 2040-AF03, Development of Best Management Practices for Recreational Boats under § 312(o) of the Clean Water Act and report their recommendations to the Board. The chartered Board's decisions on June 11, 2014 are documented in the teleconference minutes, available at:

[http://yosemite.epa.gov/sab/sabproduct.nsf/a84bfee16cc358ad85256ccd006b0b4b/177AD6AD17FE9FD585257CD0005BDC3C/\\$File/Minutes-06+11+14-final.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/a84bfee16cc358ad85256ccd006b0b4b/177AD6AD17FE9FD585257CD0005BDC3C/$File/Minutes-06+11+14-final.pdf).

Chartered Board members Drs. James Opaluch and Peter Chapman held a fact-finding conversation with EPA representatives on July 16, 2014. Attachment A contains a summary of the discussion.

Recommendations from Drs. Opaluch and Chapman to the SAB

- This Action is not necessarily proceeding, at least in the near-term, and thus does not merit further SAB consideration at this time.
- However, given the importance of this Action (see Rationale below), we ask that SAB staff report at each semi-annual regulatory agenda the status of this Action to inform the SAB should this Action proceed in future.
- Additional, broader SAB discussion on invasive species science as it relates to the EPA's mandate is merited. Such a discussion should be informed by:
 - Agency briefings on: (1) invasive species science being developed and used across the agency; and, (2) the legal authorities existing to address this major, high priority global environmental threat.

Rationale

- Discussions with OW Staff (see attached summary) indicate that this Action may not proceed; the expert workshop detailed by the agency for the SAB's June 11, 2014 teleconference for this Action (see below) is presently now neither planned nor funded.
 - EPA's Description of the Planned Action stated "*The agency is using the best available science and peer reviewed literature to identify appropriate best management practices to develop this action. The Agency is planning to convene an expert workshop on secondary transport via recreational vessels. Invited participants will have expertise in the field of invasion biology and each participant will be charged to provide their expert scientific opinion on*

management practices that the Agency should consider as part of this rule making.”

- Invasive species are a critically important and challenging problem that EPA has identified as one of the largest threats to our terrestrial, coastal, and freshwater ecosystems.
- Secondary transport of aquatic invasive species by recreational vessels is a major element in this issue, crossing state boundaries, and is in many ways more complex than primary transport.
- Per Section 4 of the Clean Boating Act, provisions apply to any incidental discharge from a recreational vessel, other than sewage – in other words, the Clean Boating Act does not only apply to chemical emissions.

Attachment A

Summary of SAB fact-finding discussion focused on planned action 2040-AF03, Development of Best Management Practices for Recreational Boats under § 312(o) of the Clean Water Act, action announced in the Fall 2013 Regulatory Agenda

July 16, 2014, 3:00 – 4:00 p.m. ET

Participants

SAB Members: Drs. James Opaluch and Peter Chapman

SAB Staff: Dr. Angela Nugent and Mr. Thomas Carpenter

Office of Water (OW) Staff: Mr. Robert Benson, Acting Chief of the Marine Pollution Control Branch, and Dr. Brian Rappoli, Lead for the Ocean and Coastal Acidification team

Introduction

Dr. Nugent explained that the SAB was seeking additional information so that it could make a determination related to this action about whether the Board should initiate a review activity to provide advice and comment on the science informing this planned action.

Information provided by OW Staff

- The Marine Pollution Control Branch (MCPB) covers five priority areas related to marine pollution: ocean dumping; trash free waters; oceans and coastal acidification; coral reef protection; and, pollution from vessels, marinas and ports.
- MCPB has an important planning function, examining a variety of regulatory and non-regulatory strategies to address problems.
- The group focusing on vessels, marinas, and ports is now considering a suite of environmental problems and approaches to determine the best strategies, given limited resources. Invasive species impact is one part of the equation.
- The EPA is not under a court order to develop regulations related to recreational boats.
- While the development of management practices for recreational boats is on EPA's regulatory agenda, it is a long term action. The decision as to when EPA moves forward on this action will be based upon a number of factors. Factors to be consider would include the relative value of such a regulation for addressing invasive species compared to other strategies, other environmental problems that need attention, and the best way to spend EPA resources. Other options being considered in a strategy under development are public information strategies, communications, webinars, and non-regulatory approaches. The EPA may know in September whether it will take some kind of action related to invasive species, after a process of briefing OW management. SAB advice may be useful after that point.

- The EPA has authority to issue regulations related to invasive species. An example is the Vessel General Permit.
- Two bills currently circulating in the U.S. House of Representatives may strike EPA's authorities under the Clean Boating Act.
- OW Staff acknowledged the potential value of social science advice to enhance OW communications to affect behavior change related to recreational boating.