



STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 8, 2010
Environment Committee

Testimony Submitted by Commissioner Amey Marrella
Department of Environment Protection

Raised Senate Bill No. 273--An Act Concerning the Discharge of Certain Vessel Pressure Washing Wastewaters

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 273, AN ACT CONCERNING THE DISCHARGE OF CERTAIN VESSEL PRESSURE WASHING WASTEWATERS. The stated purpose of the bill is: "...to allow marinas to engage in the pressure washing of vessel bottoms if the wastewater does not contain biocide compounds." The Department of Environmental Protection (Department) opposes Raised Senate Bill No. 273 because it proposes statutory language that conflicts with requirements of the federal Water Pollution Control Act (Clean Water Act) and Connecticut's Water Pollution Control Act (including the discharge permitting mechanisms already established pursuant to sections 22a-430 and 22a-430b of the general statutes).

Connecticut is authorized by the U.S. Environmental Protection Agency (EPA) to administer the federal Clean Water Act's National Pollutant Discharge Elimination System (NPDES) program in the state, which includes the separate regulation of stormwater and processed water discharges. Consistent with EPA's 2001 national guidance¹ and the manner in which EPA administers the NPDES program in other states and territories, wastewaters from the pressure washing of vessel bottoms (or hulls), regardless of the type of paint used to treat the vessel hull, is deemed to be a processed water discharge. Processed water discharges are not regulated under stormwater permits: a separate discharge permit authorizing the discharge would be required.

In conflict with state and federal requirements, the language of the bill sets forth provisions whereby a processed water discharge would be authorized *prior* to making a determination whether the discharge would or would not cause pollution, including whether such discharge would require treatment to reduce pollutant levels to protect the receiving waterbodies from pollution. *Both state and federal law require that information regarding the chemical constituents of a discharge be provided to the regulatory authority for review and approval prior to making a determination to authorize a discharge*, which is a fundamental reason why the Department and the EPA require the filing a discharge permit application with supporting water testing information regarding the quality of the wastewater discharge.

¹ First page of Section 4.13, in national EPA guidance, "National Management Measures to Control Nonpoint Source Pollution from Marinas and Recreational Boating," EPA 841-B-01-005, November 2001 (<http://www.epa.gov/owow/nps/mmssp/index.html>), which states: "Under the Clean Water Act, the NPDES Stormwater Permit Program defines boat wash water as 'processed water'. Discharge of any processed water by a marina or boatyard is illegal nationwide without a formal permit from EPA or a state government."

The Department has been working with the Connecticut Marine Trades Association since 2006 on a path towards environmental compliance. The State's marina and boatyard owner and operators were allowed until September 2009 to make good faith efforts to evaluate and implement measures to properly manage their pressure washing discharges during which timeframe the Department did not assess penalties. The Marina Compliance Initiative allowed more than a year of additional time to that timeframe, to December 2010, provided that each participating marina and boatyard entered into a consent order with the Department committing to making good-faith efforts to achieve compliance by December 2010. The willingness of facility owners and operators to take measures to protect Connecticut's waters in compliance with federal and state laws was clearly demonstrated by the remarkably high level of voluntary participation in the Department's initiative (~ 65% of the regulated community).

In a continuing effort to work with the marine industry, the Department has been actively engaged with the owner of the first Certified Clean Marina who is leading further efforts in implementing environmentally preferred practices at his facility that may set the example for other facility owners and operators to follow. Harry's Marine Repair, Inc. of Westbrook is committed to using environmentally preferred marine antifouling paints that do not contain lead, tin or copper. Harry's Marine Repair, Inc. is working with the Department on the development of Best Management Practices for managing vessel pressure washing wastewater in a cost-effective and environmentally sound manner. We believe that the cooperative effort already underway with Harry's Marine Repair addresses the underlying intent of this legislation without creating the unintended consequences of federal and state regulatory conflicts, or worse, creating regulatory conflicts that may further limiting the possible options that may, in the end provide both an environmental benefit and a cost-effective solution for facility owners and operators.

Thank you for the opportunity to present the DEP's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or Robert.LaFrance@CT.gov.