



**Testimony of David Sutherland – Director of Government Relations  
Before the Environment Committee – March 8, 2010**

**In opposition to  
Bill 273 - AN ACT CONCERNING THE DISCHARGE OF CERTAIN VESSEL  
PRESSURE WASHING WASTEWATERS.**

I am here today to express our opposition to Bill #273 as currently drafted. We sympathize with the costs incurred by marinas and boat owners in complying with requirements to properly dispose of wastewater, but the copper compounds and derivatives used in many marine paints are highly toxic to marine organisms and warrant great care in their use and disposal.

We would support measures to provide incentives or exemptions to marinas that require the use of non-toxic paints. Paragraph (b) in this legislation could provide an exemption to individual boat owners, but determining which individual boats have used toxic or non-toxic paints would be impractical, so an exemption should only apply to boatyards adopting a required uniform approach.

Paragraph (a) of this legislation raises many concerns. Its intention seems to be to focus on results in the water of activities, rather than the methodology or techniques used by boat owners or marinas. In some cases, this is a laudable and sensible approach. As worded, however, this bill seems to require DEP to order an initial test from every marina, but there is no specification as to when that test might be. Would a test run in October indicate if practices at the shipyard are creating problems in the spring? Can DEP specify when tests be run?

Even in the event of a serious violation of the law or pollution of waters, this bill would require "repeated failure to meet the requirements of subdivision (1) of this subsection..." before an order "may" be issued to correct the pollution. Does "repeated" mean "two", "four", or more? Regulatory agencies use discretion all the time in determining whether to pursue a compliance order in the face of violations, but should a statute require "repeated" violations right from the start?

While a results-based approach may be an effective one in some regulatory situations, as drafted, this bill demonstrates the potential flaws in such a methodology. We urge your opposition to this legislation as currently drafted.